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Rebecca McDowell Cook
Secretary of State

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Dec. 15, 1999	Jan. 14, 2000	Jan. 30, 2000	Feb. 29, 2000
Jan. 3, 2000	Feb. 1, 2000	Feb. 29, 2000	March 30, 2000
Jan. 14, 2000	Feb. 15, 2000	Feb. 29, 2000	March 30, 2000
Feb. 1, 2000	March 1, 2000	March 31, 2000	April 30, 2000
Feb. 15, 2000	March 15, 2000	March 31, 2000	April 30, 2000
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July 14, 2000	August 15, 2000	August 31, 2000	Sept. 30, 2000
August 1, 2000	Sept. 1, 2000	Sept. 30, 2000	Oct. 30, 2000
August 15, 2000	Sept. 15, 2000	Sept. 30, 2000	Oct. 30, 2000

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 24, *Missouri Register*, page 27. The approved short form of citation is 24 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo Supp. 1999. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

EMERGENCY AMENDMENT

11 CSR 50-2.150 Brake Performance. The division is amending subsection (1)(C).

PURPOSE: *This amendment defines a procedure to be followed when brake testing machines are used as part of the brake test and is necessary due to recent legislative changes effective July 1, 2000.*

EMERGENCY STATEMENT: *In 1999, the Missouri General Assembly passed into law Senate Bill 19. This legislation embodies revisions to the existing safety inspection program that become effective July 1, 2000. It is necessary to revise existing rules which address aspects of the safety inspection procedure that are affected by the legislative change. In the absence of these rule changes, the safety inspection procedures will conflict with related statutes on and following the effective date of the revised legislation. The Patrol finds an immediate danger to the health, safety and welfare to the citizens of Missouri and a compelling governmental interest, which requires emergency action. This emergency amendment complies with the protections extended by the *Missouri* and *United States Constitutions* and limits its scope to the circumstances cre-*

ating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed February 1, 2000, effective July 1, 2000, expires December 27, 2000.

(1) A brake performance test shall be performed by an inspector/mechanic on all single unit motor vehicles equipped with mechanical, hydraulic or power assisted hydraulic service brakes. The brake performance test may be conducted by using any one (1) of the following procedures: a decelerometer test, a drive and stop test, a brake testing machine, or a dynamometer test. The selected test shall be conducted on the inspection station premises.

(C) Brake Testing Machine. Drive vehicle onto brake testing machine. Apply brakes firmly at a speed from four to eight (4-8) mph without wheel lock-up. **If a computerized brake testing machine is utilized, a copy of the results will be provided to the vehicle owner.**

1. Reject vehicle if:

A. The vehicle is not capable of developing evaluated braking force equal to or greater than that shown for its classification as prescribed in Table I. At least three (3) tests should be made before a vehicle is rejected;

B. Any wheel fails to indicate braking action;

C. The reading on any one (1) wheel is less than seventy-five percent (75%) of the reading on the other wheel on the same axle; or

D. The braking force of both wheels on one (1) axle is more than seventy-five percent (75%) of the total force of all the wheels.

E. Master cylinder gasket is torn or misshaped.

AUTHORITY: *section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.*

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

EMERGENCY AMENDMENT

11 CSR 50-2.160 Brake Components. The division is amending section (2).

PURPOSE: *This amendment details the procedure to follow if the brake performance test is conducted on a computerized brake testing machine allowed by recent legislative changes effective July 1, 2000.*

EMERGENCY STATEMENT: *In 1999, the Missouri General Assembly passed into law Senate Bill 19. This legislation embodies revisions to the existing safety inspection program that become effective July 1, 2000. It is necessary to revise existing rules which address aspects of the safety inspection procedure that are affected by the legislative change. In the absence of these rule changes, the safety inspection procedures will conflict with related statutes on and following the effective date of the revised legislation. The Patrol finds an immediate danger to the health, safety and welfare to the citizens of Missouri and a compelling governmental interest, which requires emergency action. This emergency amendment complies with the protections extended by the *Missouri* and *United States Constitutions* and limits its scope to the circumstances creating the*

emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed February 1, 2000, effective July 1, 2000, expires December 27, 2000.

(2) Drums, Discs, and Internal Brake Components. At least one (1) front or one (1) rear wheel and drum must be removed on each passenger vehicle, one-half (1/2) ton and three-quarter (3/4) ton pickup trucks, or similar type vehicles not equipped with dual rear wheels. Only the wheel must be removed on vehicles equipped with disc brakes. Identification marks shall be made on the wheel and lug before removal so the wheel can be remounted in the same position to insure wheel balance. On drum brake systems, a new cotter pin must always be used when remounting a wheel and drum. **The removal of a wheel and/or drum is not required if the brake performance test has been administered using an approved computerized brake testing machine. When an approved computerized brake testing machine is used, and no wheel is removed, the inspector shall mark through the space on the MVI-2 form provided for "Brake Inspected" with the letters "CBTM."** When removal of a wheel is required, a wheel appearing to leak brake fluid or grease, shall be the wheel removed to inspect for contamination. Wheels on four (4)-wheel drive vehicles equipped exclusively with drum-type brakes are not required to be removed.

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. A proposed amendment covering this material is published in this issue of the Missouri Register.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

EMERGENCY AMENDMENT

11 CSR 50-2.290 Fuel [Tank] System. The division is amending the rule title, amending section (1), amending subsections (2)(A) and (2)(B), amending section (3), and amending subsections (4)(A) and (4)(B).

PURPOSE: This amendment requires the inspection of the entire fuel system and not just the fuel tank because of recent legislative changes effective July 1, 2000.

EMERGENCY STATEMENT: In 1999, the Missouri General Assembly passed into law Senate Bill 19. This legislation embodies revisions to the existing safety inspection program that become effective July 1, 2000. It is necessary to revise existing rules which address aspects of the safety inspection procedure that are affected by the legislative change. In the absence of these rule changes, the safety inspection procedures will conflict with related statutes on and following the effective date of the revised legislation. The Patrol finds an immediate danger to the health, safety and welfare to the citizens of Missouri and a compelling governmental interest, which requires emergency action. This emergency amendment complies with the protections extended by the Missouri and United States Constitutions and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed February 1, 2000, effective July 1, 2000, expires December 27, 2000.

(1) Inspect the fuel tank(s), fuel lines **and** connections *[at the fuel tank(s)]*, filler tube, and filler tube cap on gasoline or diesel fueled vehicles.

(2) Reject vehicle if:

(A) There is fuel leakage *[in the fuel line connections]* at *[the tank(s)]* **any location**;

(B) Fuel tank is not securely attached *[or leaks]*; or

(3) Inspect Compressed Fuel Systems *[Tank(s) and fuel line connections at the fuel tank(s)]*. Inspect for the decal issued by the Division of Weights and Measures, Department of Agriculture on liquefied petroleum gas (LPG) systems.

(4) Reject compressed fuel systems if:

(A) There is fuel leakage *[in the fuel line connections]* at *[the tank(s)]* **any location**;

(B) Fuel tank is not securely attached *[or leaks]*; or

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 9, 1971, effective Nov. 19, 1971. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 1—Wildlife Code: Organization

PROPOSED AMENDMENT

3 CSR 10-1.010 Organization and Methods of Operation. The department proposes to amend section (2).

PURPOSE: State departments are required by sections 536.023(3) and 252.002, RSMo to provide descriptions of their organizations. This amendment reflects the organizational change of converting to division status the sections of private land services, natural history and human resources—all authorized by the Conservation Commission.

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees and is assisted by a deputy director with programs and activities carried out by the divisions of fisheries, wildlife, forestry, protection, design and development, outreach and education, administrative services, *[and by the sections of]* private land services, natural history and human resources. An assistant to director provides leadership for special projects and initiatives as assigned by the director; notably legislative liaison, partnerships with other entities, etc.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 28, 1974, effective July 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 18, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules

PROPOSED RULE

4 CSR 110-2.001 Definitions

PURPOSE: This rule provides definitions for specific terms used throughout the rules.

(1) "Dentist"—one who is currently licensed to practice as a dentist in Missouri.

(2) "Hygienist"—one who is currently licensed to practice as a dental hygienist in Missouri.

(3) "Direct supervision"—a level of supervision in which the dentist has authorized the procedure for a patient of record, remains in the treatment facility while the procedure is performed and evaluates the procedure prior to patient dismissal.

(4) "Indirect supervision"—a level of supervision in which the dentist has authorized the procedure for a patient of record and remains in the treatment facility while the procedure is performed.

(5) "General supervision"—a level of supervision in which the dentist has authorized the procedure for a patient of record and which does not require the physical presence of the dentist in the treatment facility during the performance of the procedure. The patient must be informed that the dentist is not in the treatment facility. The authorization shall be written in the patient's record and is valid from the date of the most recent examination for a maximum of twelve (12) months. The authorization is not renewable without an examination of the patient by the dentist.

(6) "Patient of record"—one for whom the dentist has obtained a relevant history, performed an examination and evaluated the condition to be treated.

AUTHORITY: sections 332.031, 332.091 and 332.311, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, P.O. Box 1367, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 110—Missouri Dental Board Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 110-2.130 Dental Hygienists. This rule defined the degree of supervision and specified those functions a dentist could and could not delegate to his/her registered or currently licensed dental hygienist as provided in sections 332.031.1, 332.091 and 332.311, RSMo and the related responsibility of the dentist.

PURPOSE: This rule as currently written is unclear. This rule is being rescinded and replaced by a new rule.

AUTHORITY: section 332.031, RSMo 1986. Original rule filed Dec. 12, 1975, effective Jan. 12, 1976. Amended: Filed March 8, 1978, effective June 11, 1978. Rescinded and readopted: Filed April 14, 1982, effective Oct. 11, 1982. Rescinded and readopted: Filed Oct. 13, 1983, effective Jan. 13, 1984. Amended: Filed April 16, 1985, effective Aug. 26, 1985. Amended: Filed May 2, 1988, effective July 28, 1988. Amended: Filed May 4, 1992, effective Sept. 6, 1992. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Dental Board, Sharlene Rimiller, Executive Director, P.O. Box 1367, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 110—Missouri Dental Board Chapter 2—General Rules

PROPOSED RULE

4 CSR 110-2.130 Dental Hygienists

PURPOSE: This rule specifies the level of supervision for and the procedures that a dentist may and may not delegate to a hygienist.

(1) A hygienist may be employed by any person or entity so long as the hygienist is working under the supervision of a dentist as set forth in section 332.311, RSMo and does not engage in the practice of dentistry as set forth in section 332.071, RSMo.

(2) The dentist is responsible for patient care. Nothing contained in the authority given the dentist by this rule to delegate the performance of certain procedures shall relieve the dentist from responsibility to the patient.

(3) A hygienist may perform the following procedures under general supervision:

- (A) Scaling and polishing teeth (prophylaxis);
- (B) Applying dental sealants;
- (C) Periodontal root planing, debridement and curettage;
- (D) Nonsurgical periodontal procedures;
- (E) All procedures delegable to a dental assistant or certified dental assistant, except the expanded functions in section (5) of this rule.

(4) A hygienist may perform the following procedures under indirect supervision:

- (A) Administering nitrous oxide analgesia, as outlined in section (8) of this rule;
- (B) Administering local anesthesia, as outlined in sections (9) and (10) of this rule;
- (C) Procedures deemed appropriate by a dentist as outlined in section 332.091, RSMo; and
- (D) All procedures allowed under general supervision as outlined in section (3) of this rule.

(5) A hygienist may perform the following procedures under direct supervision:

- (A) All procedures allowed under general supervision and indirect supervision as outlined in sections (3) and (4) of this rule; and
- (B) Expanded functions in 4 CSR 110-2.120 with proof of competency, with the exception of periodontal procedures as outlined in section (3) of this rule, made available to the board upon request. Neither a Missouri basic skills test nor certification in dental assisting is required for a dental hygienist to take expanded functions courses.

(6) A hygienist may not perform procedures considered the practice of dentistry as set forth in section 332.071, RSMo including, but not limited to, the following:

- (A) Diagnosis, including the interpretation of dental radiographs and treatment planning;
- (B) Cutting of tooth structure;
- (C) Surgical procedures on hard and soft tissues including, but not limited to, the removal of teeth and the cutting and suturing of soft tissues;
- (D) Prescription, injection and parenteral administration of drugs, with the exception of the administration of nitrous oxide analgesia or local anesthesia as outlined in sections (8), (9) and (10) of this rule; and
- (E) Final bending of an archwire prior to ligation.

(7) A hygienist may provide oral hygiene instructions or conduct oral screenings without a dentist being present. The hygienist shall refer the individual screened to a dentist for diagnosis.

(8) A hygienist may administer nitrous oxide analgesia if s/he:

- (A) Obtains proof of competency in a nitrous oxide analgesia course; and
- (B) Obtains a nitrous oxide analgesia permit, issued by the board, upon submitting the following:

1. A completed application form provided by the board; and
2. A nonrefundable fee, payable to the Missouri Dental Board; and
3. A notarized copy of proof of competency.

(9) A hygienist may administer local anesthesia, which includes infiltration and block anesthesia, if s/he:

(A) Obtains proof of competency in a local anesthesia course or holds a Missouri Dental Board infiltration anesthesia permit issued prior to the effective date of this rule and obtains proof of competency in a local anesthesia course which includes block anesthesia; and

(B) Receives a local anesthesia permit, issued by the board, upon submitting the following:

1. A completed application form provided by the board; and
2. A nonrefundable fee, payable to the Missouri Dental Board; and
3. A notarized copy of proof of competency.

(10) A hygienist may administer only infiltration anesthesia if s/he currently holds a Missouri Dental Board infiltration anesthesia permit issued prior to the effective date of this rule.

(11) For purposes of this rule, proof of competency means documentation verifying completion of didactic and clinical training and passage of competency testing of that training from a dental, dental hygiene or dental assisting school accredited by the Commission on Dental Accreditation of the American Dental Association or a board-approved sponsor as defined in 4 CSR 110-2.240.

(12) The provisions of this rule are declared severable. If a court of competent jurisdiction holds any provision of this rule invalid, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction.

*AUTHORITY: section 332.031, 332.071, 332.091 and 332.311, RSMo Supp. 1999. Original rule filed Dec. 12, 1975, effective Jan. 12, 1976. For intervening history, please consult the **Code of State Regulations**. Rescinded and readopted: Filed Jan. 28, 2000.*

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions \$10,471.44 during FY99 and \$869.40 yearly thereafter for the life of the rule. See attached fiscal note.

PRIVATE COST: The proposed rule is estimated to cost private entities \$35,156.64 during FY99 and \$10,346.40 yearly thereafter for the life of the rule. See attached fiscal note.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, P.O. Box 1367, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 110 - Missouri Dental Board

Chapter: 2 - General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 110-2.130 Dental Hygienists

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate	
Missouri Dental Board	FY99	\$10,471.44
Missouri Dental Board	FY00	\$ 869.40 *
	*Yearly for the Life of the Rule	

III. WORKSHEET

PERSONNEL SERVICES		
	FY99	FY00*
FTE'S	\$7,317.00	\$607.50
EXPENSE AND EQUIPMENT		
	FY99	FY00*
Printing	\$325.20	\$27.00
Postage	2,113.80	175.50
Supplies	715.44	59.40
TOTAL	\$3,154.44	\$261.90

IV. ASSUMPTIONS

Assumes that of the 2200 hygienists currently licensed, 75% of the 1,564 hygienists instate and 50% of the 636 hygienists outstate will apply for a local anesthesia permit during FY99. Assumes that of the estimated 180 hygienists obtaining initial licensure annually, 75% will apply for a local anesthesia permit during FY99 and for each year thereafter.

Assumes that of the 180 hygienists obtaining licensure annually, 45% will apply for a nitrous oxide analgesia permit. Based upon a review of the past two fiscal years, an average of 81 hygienists received a nitrous oxide analgesia permit.

1. PRINTING COSTS -

\$352.20

Assumes a cost of \$.15 per application printed:

FY99 \$.15 x 1626 = \$243.90

FY00 \$.15 x 135 = \$ 20.25

Assumes a cost of \$.05 per letterhead printed:

FY99 \$.05 x 1626 = \$ 81.30

FY00 \$.05 x 135 = \$ 6.75

2. POSTAGE -

\$2,289.30

Assumes a cost of \$.32 per application mailed:

FY99 \$.32 x 1626 = \$ 520.32

FY00 \$.32 x 135 = \$ 43.20

Assumes a cost of \$.98 per wall-hanging mailed:

FY99 \$.98 x 1626 = \$1,593.48

FY00 \$.98 x 135 = \$ 132.30

3. SUPPLIES -

\$ 774.84

Assumes a cost of \$.06 per 9" x 12" envelope (application mailing)

FY99 \$.06 x 1626 = \$ 97.56

FY00 \$.06 x 135 = \$ 8.10

Assumes a cost of \$.38 for wall-hanging materials (paper, seals, envelope, cardboard)

FY99 \$.38 x 1626 = \$617.88

FY00 \$.38 x 135 = \$ 51.30

4. FTE COSTS -

\$7,924.50

The calculation of the FTE hourly salary is based upon 2,080 hours per year.

CLERK-TYPIST II

The annual salary of a clerk typist II is \$23,404 (\$17,904 plus 30.72% fringe) divided by 2,080 for an hourly salary of \$11.25 divided by 60 minutes = \$.18 per minute.

FY99 \$.18 x 5 = \$.90 x 1626 = \$1,463.40

FY00 \$.18 x 5 = \$.90 x 135 = \$ 121.50

ACCOUNT CLERK II

The annual salary for an account clerk II is \$26,651 (\$20,388 plus 30.72% fringe) divided by 2,080 for an hourly salary of \$12.81 divided by 60 minutes = \$.21 per minute.

FY99 \$.21 x 5 = \$1.05 x 1626 = \$1,707.30

$$\text{FY00 } \$.21 \times 5 = \$1.05 \times 135 = \$ 141.75$$

LICENSURE TECHNICIAN I

The annual salary of a .5 licensure technician I is \$11,184.40 (\$8,556 plus 30.72% fringe) divided by 1,040 for an hourly salary of \$10.75 divided by 60 minutes = \$.17 per minute.

$$\text{FY99 } \$.17 \times 15 = \$2.55 \times 1626 = \$4,146.30$$

$$\text{FY00 } \$.17 \times 15 = \$2.55 \times 135 = \$ 344.25$$

The FY00* costs will recur annually over the life of the rule with no increases other than inflationary costs.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 110 - Missouri Dental Board

Chapter: 2 - General Rules

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 110-2.130 Dental Hygienists

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1626	Hygienists	FY99 \$35,156.64
135	Hygienists	FY00 * \$10,346.40
		*Yearly for the Life of the Rule

III. WORKSHEET

COST TYPE	NUMBER IN CLASS	AGGREGATE COST FY99	NUMBER IN CLASS	AGGREGATE COST FY00
Postage @ \$.32 x 2 = \$.64	1626	\$ 1,040.64	135	\$ 86.40
Notary @ \$2.50 x 2 = \$5.00	1626	8,130.00	135	675.00
Nitrous Oxide Analgesia Permit @\$10.00	810	8,100.00	81	8,100.00
Local Anesthesia Permit @ \$10.00	1626	16,260.00	135	1,350.00
Photocopy per page @\$.50 x 2 = \$1.00	1626	1,626.00	135	135.00
TOTAL AGGREGATE COST PER YEAR		\$35,156.64		\$10,346.40

IV. ASSUMPTIONS

1. Assumes that of the 2200 hygienists currently licensed, 75% of the 1,564 hygienists instate and 50% of the 636 hygienists outstate will apply for a local anesthesia permit during FY99. Assumes that of the estimated 180 hygienists obtaining initial licensure annually, 75% will apply for a local anesthesia permit during FY99 and for each year thereafter.

CALCULATION:	1564 x .75 =	1173 x \$10.00 =	\$11,730.00	FY99
	636 x .50 =	318 x \$10.00 =	\$ 3,180.00	FY99
	180 x .75 =	135 x \$10.00 =	\$ 1,350.00	FY99
	Total	1626		
	180 x .75 =	135 x \$10.00 =	\$ 1,350.00	FY00

2. Assumes that of the 180 hygienists obtaining licensure annually, 45% will apply for a nitrous oxide analgesia permit. Based upon a review of the past two fiscal years, an average of 81 hygienists received a nitrous oxide analgesia permit.

CALCULATION:	180 x .45 =	81 x \$10.00 =	\$8,100.00
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3. Assumes the applicant will incur postage costs for mailing the application to the board office including training documentation requiring two postage stamps.

CALCULATION:	\$.64 x 1626 =	\$ 1,040.64	FY99
	\$.64 x 135 =	\$ 86.40	FY00

4. Assumes the applicant will incur two notary costs at \$2.50 each to have the application notarized as well as the training document.

CALCULATION:	\$2.50 x 2 = \$5.00 x 1626 =	\$8,130.00	FY99
	\$2.50 x 2 = \$5.00 x 135 =	\$ 675.00	FY00

5. Assumes the applicant will incur two photocopying costs at \$.50 per page to submit their training documentation.

CALCULATION:	\$.50 x 2 = \$1.00 x 1626 =	\$1,626.00	FY99
	\$.50 x 2 = \$1.00 x 135 =	\$ 135.00	FY00

These costs will recur annually over the life of the rule with no increases other than inflationary costs.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

PROPOSED AMENDMENT

4 CSR 150-2.001 Definitions. The board is proposing to amend section (4).

PURPOSE: The purpose of this amendment is to specify deadline date exceptions.

(4) The term “timely pay,” as used in section 334.100.2(4)(n), RSMo, shall mean any license renewal fee received by the board [within sixty (60) days of] prior to the [license renewal] licensure expiration date. Renewal forms postmarked by the post office February 1 or after will be considered delinquent, however, should January 31 fall on a Saturday, Sunday or legal holiday, renewal forms postmarked by the post office on the next business day will not be considered delinquent.

AUTHORITY: sections 334.045, **334.046**, 334.100 and 334.125, RSMo [Supp. 1995] Supp. 1999 and 334.090, RSMo 1994. Original rule filed Jan. 19, 1988, effective April 15, 1988. Amended: Filed April 15, 1996, effective Nov. 30, 1996. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

PROPOSED AMENDMENT

4 CSR 150-2.005 Examination Requirements for Permanent Licensure. The board is proposing to delete section (6).

PURPOSE: The purpose of this amendment is to implement Senate Bill 141 of the 89th General Assembly.

[(6) The board may waive the provisions of section (4) of this rule if the applicant is American Specialty Board-certified, licensed to practice as a physician and surgeon in another state of the United States or the District of Columbia and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia. Prior to waiving the provisions of section (4) of this rule, the board may require the applicant to achieve a passing score on one (1) of the following: The American Specialty

Board's certifying examination in the physician's field of specialization, Part II of the FLEX or the Federation of State Medical Board's Special Purpose Examination (SPEX). If the board waives the provisions of section (4) of this rule, then the license issued to the applicant may be limited or restricted to the applicant's board specialty.]

AUTHORITY: sections 334.031, 334.040 and 334.125, RSMo [1986] Supp. 1999 and 334.043, RSMo 1994. Original rule filed Feb. 17, 1988, effective May 12, 1988. For interviewing history, please consult the *State Code of Regulations*. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

PROPOSED AMENDMENT

4 CSR 150-2.065 Temporary Licenses to Teach or Lecture in Certain Programs. The board is proposing to amend subsection (2)(B).

PURPOSE: This amendment redefines an accredited hospital.

(2) As used in this rule, unless specifically provided otherwise, the term—

(B) Accredited [teaching] hospital shall mean a hospital located in Missouri [which is approved and accredited to teach graduate medical education by the accreditation counsel on graduate medical education of the AMA or the education committee of the AOA;] and licensed by the Missouri Department of Health—Bureau of Health Facility Regulation;

AUTHORITY: sections 334.046, [RSMo Supp. 1989] and 334.125, RSMo [1986] Supp. 1999. Original rule filed Jan. 19, 1988, effective April 15, 1988. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

Chapter 2—Licensing of Physicians and Surgeons

PROPOSED AMENDMENT

4 CSR 150-2.100 Licensing of International Medical Graduates—Reciprocity. The board is proposing to delete section (2) and renumber the remaining section accordingly.

PURPOSE: This amendment implements SB141 of the 89th General Assembly.

[(2) The board may waive the provisions of subsection (1)(D) of this rule if the applicant is American Specialty Board-certified, licensed to practice as a physician and surgeon in another state of the United States or the District of Columbia and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia. Prior to waiving the provisions of subsection (1)(D) of this rule, the board may require the applicant to achieve a passing score on one (1) of the following: The Appropriate Specialty Board's certifying examination in the physician's field of specialization, Component 2 of the FLEX before January 1, 1994, Step 3 of the USMLE or the Special Purpose Examination (SPEX). If the board waives the provisions of subsection (1)(D) of this rule, then the license issued to the applicant may be limited or restricted to the applicant's board specialty.]

[[3]] (2) As used in this rule, the term fifth pathway shall mean a candidate for licensure who has successfully completed four (4) years of medical education in Mexico and then completes a training program in the United States at a medical college approved and accredited by the AMA or its Liaison Committee on Medical Education or an osteopathic college approved and accredited by the American Osteopathic Association (AOA) in lieu of completing a year of internship and social service work in Mexico.

(A) A fifth pathway candidate may be eligible for licensure to practice the healing arts in this state if s/he satisfies the following requirements:

1. An applicant must have completed all of the prescribed curriculum at his/her school of medicine and the curriculum in this state and the applicant must have completed training at a medical school whose curriculum has been approved by the proper Mexican government agency;

2. An applicant must meet the academic requirements for licensure in Mexico; and

3. An applicant must be either American Specialty Board-eligible or have completed three (3) years of postgraduate training in one (1) recognized specialty area of medicine in a program which is approved and accredited to teach postgraduate medical education by the accreditation council on graduate medical education of the AMA or the education committee of the AOA.

AUTHORITY: sections 334.031, 334.040 and 334.125, RSMo [1986] Supp. 1999 and 334.035, RSMo 1994. Original rule filed July 12, 1984, effective Jan. 1, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEPARTMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

PROPOSED AMENDMENT

4 CSR 150-3.203 Acceptable Continuing Education. The board is proposing to amend section (5).

PURPOSE: This amendment corrects typographical errors.

(5) Acceptable continuing education is automatically approved if such course or activity is obtained as follows:

(B) Academic coursework completed at a regionally accredited college or university in subject matter directly related to the practice of physical therapy, as defined in section 334.500(4), RSMo in which the licensee earns a grade of a "C" or above. For the purpose of this subsection each semester credit hour shall be acceptable as ten (10) hours of continuing education, each trimester credit hour shall be acceptable as eight (8) hours of continuing education, one-quarter credit hour shall be acceptable as seven (7) hours of continuing education.

1. An official transcript, from a regionally accredited college or university, indicating successful completion of academic coursework in appropriate subject matter related to practice of physical therapy as specified in section ~~[[3]]~~ (4) of this rule, specifically reporting that the licensee earned a grade of at least a "C" for that course, and the number of credit hours awarded for the course shall be the document(s) necessary as proof of compliance if audited by the board to submit proof.

(E) Professional program presentations presented by the licensee in subject matter directly related to the practice of physical therapy which meets the criteria specified in section ~~[[3]]~~ (4) of this rule as delivered in a lecture and/or demonstration format other than academic curricula.

1. The maximum continuing education hours for presentation activities per licensee shall not exceed fifteen (15) hours during any two (2)-year reporting period.

2. The delivering of a presentation for the first time or a workshop or course shall be creditable for three (3) hours of continuing education for each hour of actual presentation time (this ratio reflects the preparation time required in delivering an initial presentation).

3. The delivering of a presentation, workshop or course for a second time shall be creditable for one (1) hour of continuing education for each hour of actual presentation time (this ratio reflects the lesser degree of preparation time required for the second presentation of a workshop or course).

4. The delivering of a presentation, workshop or course more than two (2) times, in any two (2)-year reporting period, is not acceptable for continuing education hours (this reflects the minimal

preparation time necessary for multiple presentations of the same workshop or course).

5. A written announcement of a presentation schedule and/or brochure specifically identifying the licensee as *[a or]* the presenter of a course/seminar/program which meets the criteria specified in section *[(3)] (4)* of this rule and section 334.500(4), RSMo shall be the document(s) necessary as proof of compliance if audited by the board to submit proof.

(H) Publication of a chapter in a peer-reviewed physical therapy or medical publication shall be creditable for five (5) hours of continuing education.

1. A copy of the chapter as published in a peer-reviewed physical therapy or medical publication specifically identifying the licensee as the author of such chapter, as well as a copy of the cover of the publication, shall be the document(s) necessary as proof of compliance if audited by the board to submit proof.

(I) Videotaped presentation reviews which identify a specific sponsor, sponsoring group or agency, provided that the videotaped presentation meets the criteria specified in section *[(3)] (4)* of this rule.

1. A certificate of completion of a videotaped presentation review specifically identifying the licensee as well as the specific sponsor, along with the name of the facilitator or program official present during the review, as well as all others in attendance during the review, provided that *[the]* such presentation meets the criteria specified in section *[(3)] (4)* of this rule and section 334.500(4), RSMo, shall be the document(s) necessary as proof of compliance if audited by the board to submit proof.

(J) Home study courses, which meet the criteria specified in section *[(3)] (4)* of this rule and section 334.500(4), RSMo, which result in the awarding of a certificate of completion, shall be creditable for the number of hours specified on the certificate of completion.

1. A certificate of completion verifying the completion of a home study course meeting the criteria specified in section *[(3)] (4)* of this rule and section 334.500(4), RSMo, specifically identifying the licensee and the continuing education hours such course is creditable for, shall be the document(s) necessary as proof of compliance if audited by the board to submit proof.

(L) Initial CPR *[(Cardiac Pulmonary Resuscitation)] (Cardiopulmonary Resuscitation)* certification or recertification shall be creditable for each hour of actual attendance in certification or recertification training.

1. A copy of a CPR certification or recertification certificate, specifically identifying the licensee as the person awarded such certification or recertification, shall be the document(s) necessary as proof of compliance if audited by the board to submit proof. This credit for continuing education hours shall only be applicable once during each two (2)-year reporting period.

AUTHORITY: sections 334.125 and 334.507, RSMo Supp. [1998] 1999. Original rule filed May 14, 1999, effective Dec. 30, 1999. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts—Advisory Commission for Physical Therapists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED AMENDMENT

4 CSR 150-4.051 Definitions. The board is proposing to amend subsection (1)(D).

PURPOSE: This rule amends the definition of "hour of continuing education."

(1) For the purpose of this chapter, the following definitions shall apply:

(D) Hour of continuing education—means a **minimum of fifty (50) minutes and up to a maximum of sixty (60) minutes** spent in actual attendance at and/or completion of an approved continuing education activity; **continuing education units (CEUs) are rounded down to the nearest hour;** and

AUTHORITY: sections 345.030 and 345.051, RSMo Supp. [1998] 1999. Original rule filed Nov. 17, 1997, effective June 30, 1998. Amended: Filed Nov. 16, 1998, effective July 30, 1999. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, Tina Steinman, Executive Director, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED AMENDMENT

4 CSR 150-4.055 Applicants for Provisional Licensure. The board is proposing to amend the original purpose statement and sections (4), (6) and (8).

PURPOSE: This amendment changes the text of this rule to be consistent with legislative amendments made to Chapter 345, RSMo effective with the passage of House Bill 1601 of the 89th General Assembly.

PURPOSE: This rule provides the requirements for speech-language pathology and [clinical] audiology provisional licensure pursuant to section 345.022, RSMo.

(4) The fee for provisional licensure shall be an appropriate fee, to be established by the board. The fee shall be sent in the form of a bank draft, post office money order or express money order payable on a United States *[B]*bank made payable to the *[Missouri*

Board of Healing Arts/ State Board of Registration for the Healing Arts. Personal and/or corporate checks will not be accepted. No application will be processed until the licensure fee is received.

(6) Applicants for provisional licensure must submit the following documentation:

(B) Proof of passage of the National Examination in Speech-Language Pathology and/or *[Clinical]* Audiology. Examination scores must be submitted to the board directly from the Educational Testing Service. The passing score shall remain consistent with the passing score set by the American Speech-Language-Hearing Association, on the date of licensure application;

(8) Applicants seeking provisional licensure in both speech-language pathology and *[clinical]* audiology shall meet the qualifications and submit the required documentation as stated above for both professions.

AUTHORITY: sections 345.022 and 345.030, RSMo [Supp. 1995] Supp. 1999. Original rule filed July 12, 1996, effective Jan. 30, 1997. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED AMENDMENT

4 CSR 150-4.060 Fees. The board is proposing to amend sections (1)–(3), add a new section (4), and renumber the remaining sections accordingly.

PURPOSE: This amendment changes the renewal period from annual to biennial for Speech-Language Pathologists and Audiologists, aides and provisional licensees and establishes the fee for Speech-Language Pathology Assistants' registration, renewal, and reinstatement.

(1) The following fees are established by the Advisory Commission for Speech-Language Pathologist and *[Clinical]* Audiologists and are payable in the form of a cashier's check or money order:

(B) **Biennial Licensure Renewal Fee—Odd**
Numbered Years (personal checks acceptable) [~~\$25.00~~]/**\$50.00**

(2) The following fees apply to speech-language pathology and *[clinical]* audiology aides:

(A) **[Registered] Registration**
Processing Fee \$25.00

(B) **Biennial Registration Renewal Fee—Odd**
Numbered Years (personal checks acceptable) [~~\$10.00~~]/**\$20.00**

(3) The following fees apply to speech-language pathology and *[clinical]* audiology provisional licensees:

(4) **The following fees apply to speech-language pathology assistants:**

(A) Registration Application Processing Fee	\$25.00
(B) Biennial Registration Renewal Fee—Odd	
Numbered Years (personal checks acceptable)	\$20.00
(C) Reinstatement Fee	\$10.00

[(4)] (5) All fees are nonrefundable.

[(5)] (6) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 345.015, 345.022, 345.030, *[354.051,]* 345.045, *[RSMo 1994]* **345.051**, and 345.055, RSMo *[1997]* Supp. 1999. Original rule filed July 1, 1988, effective Oct. 27, 1988. Amended: Filed April 2, 1992, effective Dec. 3, 1992. Amended: July 12, 1996, effective Jan. 30, 1997. Amended: Filed Nov. 17, 1997, effective June 30, 1998. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED AMENDMENT

4 CSR 150-4.105 Educational Requirements. The board is proposing to amend the original purpose statement, amend section (1) and add new subsections (1)(A), (1)(B), and (1)(C).

PURPOSE: This amendment deletes the word "clinical" as it precedes the word "audiology" in the original purpose statement; amends the terminology in section (1) with the addition of subsections (A)–(C). This amendment is consistent with amendments to Chapter 345, RSMo effective with the passage of House Bill 1601 of the 89th General Assembly.

PURPOSE: This rule details the educational requirements for speech-language pathology *[/clinical]* and audiology aides.

(1) To be eligible for registration as an audiology aide or speech-language pathology aide, each applicant must: *[— 1) be of good*

moral character and 2) hold a high school diploma or equivalent.]

(A) Be at least eighteen (18) years of age;

(B) Furnish evidence of good moral character;

(C) Furnish evidence of educational qualifications which shall be at a minimum:

1. Certification of graduation from an accredited high school or its equivalent; and

2. Proposed plan for on-the-job training as will be provided by a licensed speech-language pathologist or licensed audiologist (respective of registration requested) specifying employment dates, duties and responsibilities.

AUTHORITY: sections 345.015 and 345.030, RSMo [1986] Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED RESCISSION

4 CSR 150-4.110 Supervision Requirements. This rule detailed the supervision requirements for speech-language pathology/clinical audiology aides.

PURPOSE: The board is proposing to rescind this rule and propose a new rule that more clearly details the supervision requirements for speech-language pathology and audiology aides.

AUTHORITY: section 345.015, RSMo 1986. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED RULE

4 CSR 150-4.110 Supervision Requirements

PURPOSE: This rule details the supervision requirements for speech-language pathology and audiology aides.

(1) All applications for registration to practice as a speech-language pathology aide must include a statement from a speech-language pathologist, holding current unrestricted licensure to practice in the state of Missouri pursuant to section 345.015(10), RSMo, acknowledging willingness to provide on-the-job training and acceptance of the legal and ethical responsibilities for supervising the aide.

(2) All applications for registration to practice as an audiology aide, must include a statement from an audiologist holding current unrestricted licensure to practice in the state of Missouri pursuant to section 345.015(1), RSMo acknowledging willingness to provide on the job training and acceptance of the legal and ethical responsibilities for supervising the aide.

(3) The supervising speech-language pathologist and/or audiologist is responsible for all of the aide's activities.

(A) It is the responsibility of the supervising speech-language pathologist or supervising audiologist (respective of aide's registration) to protect the interests of all patients and/or clients at all times during which the aide is practicing and/or interacting with patients and/or clients; this responsibility includes the supervisor's and the aide's compliance with the ethical standards of practice as specified in rule 4 CSR 150-4.080.

(B) The supervising speech-language pathologist or supervising audiologist (respective of aide's registration) retains, at all times, the primary role in determining the competency level of the aide;

(C) When the speech-language pathology aide or audiology aide is involved in diagnostic and/or intervention activities, the aide must be directly supervised. Direct supervision is defined as on-site, in view of the aide and patient/client.

(D) It is the responsibility of the supervising speech-language pathologist or supervising audiologist (respective of aide's registration) to determine the amount of indirect supervision to be provided to the aide based on the following factors:

1. The skill and experience of the aide;
2. The skill and expertise required for the task assigned;
3. The individual needs of the patient and/or client receiving services;
4. The setting in which the delivery of services is/will be performed.

(E) The supervising speech-language pathologist or supervising audiologist (respective of aide's registration) shall ensure that the scope and intensity of training for the aide encompasses all activities assigned to the aide.

(F) The supervising speech-language pathologist or supervising audiologist (respective of aide's registration) shall provide continual opportunities to ensure that the aide's practices are current and his/her skills are maintained.

(G) The supervising speech-language pathologist or supervising audiologist (respective of aide's registration) shall provide the aide with information specifying the aide's role(s) and function(s).

(H) The number of aides supervised by a speech-language pathologist and/or audiologist shall be consistent with the delivery of appropriate quality services.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded and readopted: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED RESCISSION

4 CSR 150-4.115 Scope of Practice. This rule detailed the scope of practice for speech-language pathology/clinical audiology aides.

PURPOSE: The board is proposing to rescind this rule and propose new language that more clearly details the scope of practice for speech-language pathology and audiology aides.

AUTHORITY: section 345.015, RSMo 1986. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED RULE

4 CSR 150-4.115 Scope of Practice

PURPOSE: This rule details the scope of practice for speech-language pathology and audiology aides.

(1) The supervising speech-language pathologist shall assign all duties of the speech-language pathology aide.

(2) The supervising audiologist shall assign all duties of the audiology aide.

(3) Speech-language pathology aides may only engage in tasks that are planned, delegated, and supervised by the supervising speech-language pathologist.

(4) Audiology aides may only engage in tasks that are planned, delegated, and supervised by the supervising audiologist.

(5) The tasks performed by a speech-language pathology or audiology aide under direct supervision may include orienting the patients and/or clients to the clinical environment.

(6) The tasks performed by a speech-language pathology or audiology aide under indirect supervision may include, but not be all inclusive of the following:

(A) Setting up the treatment area;

(B) Providing checks and service maintenance to equipment;

(C) Performing clerical duties;

(D) Transporting patients and/or clients to and from treatment areas;

(E) Constructing and modifying clinical materials as directed and specified by the supervising speech-language pathologist or supervising audiologist.

(7) Aides shall not be allowed to perform the following tasks:

(A) Interpret observations and/or data;

(B) Make diagnostic statements;

(C) Determine case selections;

(D) Disclose clinical information (data or impressions relative to patient and/or client performance, behavior, or progress) either verbally or in writing to anyone other than the supervising speech-language pathologist or supervising audiologist;

(E) Compose or present clinical reports, verbally or in writing to anyone other than the supervising speech-language pathologist or supervising audiologist;

(F) Refer a patient and/or client to other professionals, agencies, or individuals for services;

(G) Use a title other than speech-language pathology aide or audiology aide pursuant to respective registration issued by the board;

(H) Sign any patient and/or client documents/documentation;

(I) Discharge a patient and/or client from services;

(J) Administer or interpret hearing screenings or diagnostic tests;

(K) Fit or dispense hearing instruments;

(L) Make ear impressions;

(M) Perform any procedure for which the aide is not qualified, or has not been adequately trained, or both;

(N) Provide counseling to a patient and/or client or the patient's and/or client's family; or

(O) Write, develop or modify treatment plans.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded and readopted: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RESCISSION

4 CSR 150-4.120 Procedural Process for Registration. This rule detailed the registration process for speech-language pathology/clinical audiology aides.

PURPOSE: The board is proposing to rescind this rule and propose a new rule that more clearly details the registration process for speech-language pathology and audiology aides.

AUTHORITY: section 345.015, RSMo 1986. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, Missouri 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.120 Procedural Process for Registration

PURPOSE: This rule details the registration process for speech-language pathology and audiology aides.

(1) Application for registration to practice as a speech-language pathology and/or audiology aide shall be made on forms obtained from the Missouri State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102.

(2) An application will not be considered as officially submitted unless completely filled out, properly attested and the application fee has been submitted and received by the board. The application

fee must be submitted in the form of a cashier's check or money order payable to the State Board of Registration for the Healing Arts, drawn on a United States bank or firm. The following documents are necessary to be filed with the board in order to deem the application complete:

(A) All applicants shall submit a copy of their birth certificate confirming their date of birth;

(B) All applicants shall submit a copy of their high school graduation diploma, or a certificate confirming their equivalency thereof;

(C) All applicants shall provide, on a form provided by the board, a proposed plan of on-the-job training, signed by the supervising licensed speech-language pathologist as specified in section 345.015 (10), RSMo; or licensed audiologist as specified in section 345.015(1), RSMo (respective of type of registration requested) which shall specify employment dates, employment title, duties and responsibilities;

(D) All applicants shall provide, on a form provided by the board, a proposed plan for active employment or verification of active employment and supervision by a supervising licensed speech-language pathologist or audiologist (respective of type of registration requested) in a setting in which direct and indirect supervision is provided on a systematic basis; and a statement by the supervising licensed speech-language pathologist or supervising licensed audiologist acknowledging willingness to provide on-the-job training and acceptance of the legal and ethical responsibilities of supervising the applicant applying for registration to practice as an aide;

(E) Verification of licensure, registration and/or certification to practice in other state(s) or territories shall be submitted to the board directly from the issuing agency, documenting their record of the applicant, if applicable; and

(F) All applicants shall present with the application a recent, unmounted, identifiable photograph not larger than three and one-half inches by five inches (3 1/2" × 5") nor smaller than two inches by three inches (2" × 3").

(3) The completed application, including all documents, supporting material(s) and official transcripts required by the board, must be received at least thirty (30) days before the next regularly scheduled commission meeting. Applications completed fewer than thirty (30) days before the next regularly scheduled meeting may be scheduled for the following regularly scheduled meeting.

(4) Following the commission and board's review, the applicant will be informed by letter either that the application has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Rescinded and readopted: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rule is estimated at \$9,478 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$947.80 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$9,616.00 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be

\$961.60 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMITS COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 150 - Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 - Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.120 Procedural Process for Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision

Estimated Cost of Compliance

State Board of Registration for the Healing Arts	Estimated Cost of Compliance for First Year of Implementation of the Rule	\$9,478.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$947.80

III. WORKSHEET

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	200	\$652.00
Statute, Rules and Regulation Printing Cost	\$.50	200	\$100.00
License Printing Cost	\$.11	200	\$22.00
Application Mailing	\$1.70	200	\$340.00
Correspondence Mailing	\$.33	200	\$66.00
License Mailing	\$.29	200	\$58.00
Total:			1,238.00

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$25,188.00	\$32,925.75	\$15.83	.26	1.5 hours	\$23.40	\$4,680.00
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	10 minutes	\$3.30	\$660.00
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	15 minutes	\$9.15	\$1,830.00
Account Clerk II	\$21,522.00	\$28,133.56	\$13.53	.23	10 minutes	\$2.30	\$460.00
Clerk IV	\$24,684.00	\$32,266.92	\$15.51	.26	3 minutes	\$.78	\$156.00
Total:							\$7,786.00

The above staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration. The total cost was based on the cost per application multiplied by the estimated 200 applications.

It is estimated that approximately ten (10) applicants out of the total estimated two hundred (200) applicants may be assigned for investigative review. It is further estimated that if an investigative review is assigned an investigator will devote approximately two (2) hours investigating the applicant and/or situation, collecting the necessary documents and preparing an investigative report for the board's review. This would also include approximately thirty (30) minutes of a Clerk Stenographer II to assemble this information for board review, copy the report to the board, log the investigative in the computer system, etc.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Investigator	\$31,344.00	\$40,972.88	\$19.70	.33	2 hours	\$39.40	\$394.00
Clerk Stenographer II	\$19,260.00	\$25,176.67	\$12.10	.20	30 minutes	\$6.00	\$60.00
Total:							\$454.00

The above investigative staff salaries were calculated using the following formula:

Salaries of employees involved in the investigative process were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent investigating the applicant or the situations. The total cost was based on the cost per application multiplied by an estimated ten (10) applicants out of the total estimated two hundred (200) applicants that may be assigned for investigative review.

GRAND TOTAL FOR FIRST YEAR OF IMPLEMENTATION OF THE RULE: \$9,478.00

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration and devoted to the following duties:

Licensure Technician II – 1.5 hours per application

Duties: telephone time devoted to applicants requesting licensure application forms, answering inquiries relative to the documents necessary for licensure, processing the application, corresponding to the applicant acknowledging receipt of the application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 10 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the board.

Executive Director – 15 minutes per application

Duties: review applications directed to the board for review and approval. It is estimated that ten (200) out of the estimated two hundred (200) applications estimated to receive per year will require board review.

Account Clerk II – 10 minutes per application

Duties: enter fee as received and prepare a revenue transmittal, post the fee and reconcile the fee on a daily, monthly, and yearly basis

Clerk IV – 3 minutes per application

Duties: enter the fee on the daily fee log and disseminate the fee to the Licensure Supervisor.

- The board anticipates 200 individuals will apply for registration during the first year. The board estimates this registration process will cost the board approximately \$47.39 per application.
- The public entity cost for this proposed amendment is estimated to be \$9,478.00 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$947.80 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Department of Economic Development

Division: Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 – Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.120 Procedural Process for Registration

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate cost of compliance
200	Individuals (application)	\$5,000.00
200	Individuals (notary)	\$500.00
200	Individuals (transcript)	\$2,000.00
200	Individuals (verification)	\$2,000.00
200	Individuals (postage)	\$66.00

**Estimated Cost of Compliance for
the First Year of Implementation of
the Rule** **\$9,616.00**

**Estimated Annual Cost of
Compliance for the Life of the Rule** **\$961.60**

III. WORKSHEET

Application for Registration @ \$25.00.

Notary @ \$2.50

Copy of high school diploma @.25

Verification of licensure, registration and/or certification fee @ \$10.00

Birth certificate @ \$10.00

Postage @ \$.33

IV. ASSUMPTIONS

- The board anticipates 200 individuals will apply for registration during the first year. The board estimates this registration process will cost each applicant approximately \$48.08
- The private entity cost for this proposed amendment is estimated to be \$9,616.00 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$961.60 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED AMENDMENT

4 CSR 150-4.125 Display of Certificate. The board is proposing to amend the original purpose statement and the terminology used in the text of the rule.

PURPOSE: This amendment deletes the word “clinical” as it precedes the word “audiology” in the original purpose statement; and amends the text of the rule changing the terminology to be consistent with amendments to Chapter 345, RSMo effective with the passage of House Bill 1601 of the 89th General Assembly.

PURPOSE: This rule details the requirements for displaying a speech-language pathology [/clinical] and/or audiology aide certificate of registration.

[A registrant] Speech-language pathology and audiology aides shall display the certificate issued by the State Board of Registration for the Healing Arts in a prominent place in [the primary] each location of practice.

AUTHORITY: sections 345.015, 345.030 and 345.065, RSMo [1986] Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED AMENDMENT

4 CSR 150-4.130 Renewal of Certificate of Registration. The board is proposing to amend the original purpose statement and the text of the rule.

PURPOSE: This amendment deletes the word “clinical” as it precedes the word “audiology” and amends the text of the rule to be consistent with the amendments of Chapter 345, RSMo effective with the passage of House Bill 1601 of the 89th General Assembly.

PURPOSE: This rule details the process for renewing a speech-language pathology [/clinical] or audiology aide registration certificate.

Each registered speech-language pathology or [clinical] audiology aide shall [annually] biennially pay the nonrefundable fee for renewal of the certificate of registration. The executive director shall not consider a [license] registration to be renewed until the completed registration renewal form signed by the supervising [licensed] speech-language pathologist/[clinical] and/or audiologist and the renewal fee have been received by the State Board of Registration for the Healing Arts. [The registered speech-language pathologist/clinical audiologist shall furnish a signed statement on forms provided by the board regarding the performance of the aide. This must accompany the renewal form.]

AUTHORITY: sections 345.015, 345.030 and 345.051, RSMo [1986] Supp. 1999. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts—Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.200 Definition of Uniform Functionally Based Proficiency Evaluation

PURPOSE: This rule defines the Uniform Functionally Based Proficiency Evaluation as required by section 345.015(12)(c), RSMo.

The uniform functionally based proficiency evaluation required by section 345.015(12)(c), RSMo, shall be on a form provided by the board attesting to completion of educational requirements by the program director of the person's educational program and completion of a jurisprudence examination.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received

within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.201 Supervision Requirements

PURPOSE: This rule details the supervision requirements for speech-language pathology assistants.

(1) All applications for registration to practice as a speech-language pathology assistant must include a statement from a speech-language pathologist holding current, unrestricted licensure to practice in the state of Missouri pursuant to section 345.015(10), RSMo, acknowledging acceptance of the legal and ethical responsibilities for supervising the assistant. A speech-language pathologist practicing with a provisional license pursuant to section 345.022, RSMo shall not be the supervisor for a speech-language pathology assistant.

(2) The supervising speech-language pathologist is responsible for the clinical activities of the assistant.

(3) The supervising speech-language pathologist has the responsibility of ensuring and protecting the interests of all patients and/or clients at all times during which the assistant is practicing and/or interacting with patients and/or clients; this responsibility includes the supervisor's and the assistant's compliance with the ethical standards of practice as specified in rule 4 CSR 150-4.080.

(4) The supervising speech-language pathologist shall ensure that the scope and intensity of the assistant's training encompasses all of the activities assigned to the assistant.

(5) The supervising speech-language pathologist shall provide the assistant with information specifying the assistant's role and function as well as specifying the role and function of the supervising speech-language pathologist.

(6) The supervising speech-language pathologist shall provide continuing opportunities to ensure that the speech-language pathology assistant's practices are current and skills are maintained.

(7) The supervising speech-language pathologist shall directly supervise the assistant's initial client contact. Thereafter, one (1) out of every five (5) sessions for each client shall be directly supervised. Direct supervision is defined as on-site, in view of the assistant and patient/client. After the first twelve (12) months of continued employment as a speech-language pathology assistant, the supervising speech-language pathologist must conduct a supervisory visit at least once every two (2) weeks with each patient who has been referred to the speech-language pathology assistant. If an alternative arrangement is necessary the supervising speech-language pathologist must submit a proposed plan of supervision for the review of the advisory commission and board to determine if the supervision plan is acceptable. All other client contacts shall be indirectly supervised. Indirect methods of supervision such as audio or videotape recording, telephone communication, numerical data, or other means of reporting may be utilized.

(8) The supervising speech-language pathologist must be available for the purpose of providing guidance and support to the assistant at all times, via telephone contact, facsimile, etc.

(9) The supervising speech-language pathologist shall review and sign all patient/client documented progress notes written by the speech-language pathology assistant.

(10) The supervising speech-language pathologist shall assign and the assistant shall accept only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform, pursuant to the judgement of the supervising speech-language pathologist, and in compliance with the provisions of Chapter 345, RSMo.

(11) The speech-language pathology assistant shall maintain supervisory logs and the speech-language pathologist shall sign verifying the hours of supervision per month, such logs shall be made available to the board within thirty (30) days upon receipt of a request for such log(s) from the board.

(12) The maximum number of speech-language pathology assistants supervised by one licensee shall not exceed two (2).

AUTHORITY: sections 345.015, 345.022 and 345.030, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.203 Scope of Practice

PURPOSE: This rule details the scope of practice for speech-language pathology assistants.

(1) The supervising speech-language pathologist shall assign all duties of the speech-language pathology assistant.

(2) At the initial contact with the patient or client the speech-language pathology assistant shall identify themselves as a speech-language pathology assistant and explain that they do not act independently but under the direction and supervision of a licensed speech-language pathologist.

(3) The activities of a speech-language pathology assistant may include, but not be all-inclusive of the following:

(A) Conducting speech-language and hearing screenings without interpretation;

(B) Following documented treatment plans or protocols as developed by the supervising speech-language pathologist;

(C) Documenting patient and/or client progress toward meeting established objectives as specified in the treatment plan, with documentation review by the supervising speech-language pathologist;

(D) Reporting changes in a patient and/or client's performance and progress to the supervising speech-language pathologist;

(E) Assisting the supervising speech-language pathologist during the assessment of a patient and/or client;

(F) Reporting in conferences, team meetings, etc., as directed by the supervising speech-language pathologist;

(G) Scheduling activities, preparing charts, records, graphs or otherwise display data;

(H) Communicating with a patient and/or client, or a patient and/or client's family, staff, etc., regarding the patient and/or client status as directed by the supervising speech-language pathologist;

(I) Constructing or modifying clinical materials;

(J) Participating with the supervising speech-language pathologist in research projects, in-service training, public relation programs or similar activities;

(K) Any and all duties as specified to be within the scope of the speech-language pathology assistant, as provided in Chapter 345, RSMo.

(4) Speech-language pathology assistants shall not (this list is not intended to be all-inclusive)—

(A) Interpret screenings;

(B) Conduct and/or interpret evaluations;

(C) Make diagnostic statements;

(D) Determine case selections;

(E) Interpret observations and/or data;

(F) Refer a patient and/or client to other professionals, agencies or individuals for services;

(G) Write, develop or modify a patient and/or client's treatment plan;

(H) Assist with the treatment of a patient and/or client without following an individualized treatment plan prepared by the supervising speech-language pathologist;

(I) Discharge a patient and/or client from treatment;

(J) Provide counseling to a patient and/or client and/or the patient's and/or client's family;

(K) Perform any procedure for which the assistant is not qualified to perform, or has not been adequately trained to perform, or both;

(L) Disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist;

(M) Present written reports to anyone other than the supervising speech-language pathologist, without the supervisor's signature and approval;

(N) Sign any formal documents without review, authorization and/or co-signature of the supervising speech-language pathologist;

(O) Use any title other than speech-language pathology assistant.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State

Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts

Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

PROPOSED RULE

4 CSR 150-4.205 Procedural Process for Registration

PURPOSE: This rule details the registration process for speech-language pathology assistants.

(1) Applications for registration must be made on forms prepared by the Advisory Commission for Speech-Language Pathologists and Audiologists. Application forms may be obtained by writing the executive secretary for the Advisory Commission for Speech-Language Pathologists and Audiologists, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098.

(2) An application will not be considered as officially submitted unless completely filled out, properly attested and the application fee has been received by the board. The application fee must be submitted in the form of a cashier's check or money order payable to the Missouri Board of Healing Arts, drawn on a United States bank. The following documents are necessary to be filed with the board in order to deem the application complete:

(A) Prior to January 1, 2005, all applicants must furnish official transcripts from one or more accredited colleges or universities, confirming a bachelor's degree in speech-language pathology or an associate's degree as a speech-language pathology assistant. Such transcripts shall evidence completion of the coursework and clinical practicum requirements equivalent to that required by the Council on Academic Accreditation of the American Speech-Language and Hearing Association. Transcripts shall detail all coursework and clinical practicum hours and document the degree(s) awarded and area(s) of emphasis.

(B) On or after January 1, 2005, all applicants must furnish official transcripts confirming a minimum of an associate's degree as a speech-language pathology assistant from one or more accredited colleges or universities which present evidence of the completion of coursework and clinical practicum requirements equivalent to that required or approved by the Council of Academic Accreditation of the American Speech-Language and Hearing Association.

(C) All applicants shall furnish a statement from a speech-language pathologist holding current unrestricted licensure to practice in the state of Missouri pursuant to section 345.015(10), RSMo, acknowledging acceptance of the legal and ethical responsibilities for supervising the applicant.

(D) All applicants shall furnish evidence of successful completion of a uniform, functionally based proficiency evaluation provided by the board.

(E) Verification of licensure, registration and/or certification to practice in other state(s) or territories shall be submitted to the board directly from the issuing agency, documenting their record of the applicant, if applicable.

(F) All applicants shall present with the application a recent, unmounted, identifiable photograph not larger than three and one-half inches by five inches (3 1/2" × 5") nor smaller than two inches by three inches (2" × 3").

(3) During a registration year if there is a change in supervision, a new Supervisor Responsibility Statement must be completed by the new licensed supervisor and returned to the board. Without the completed statement on file, an assistant may not practice as an assistant until a current Supervisor Responsibility Statement is received by the board.

(4) The completed application, including all documents, supporting material(s) and official transcripts required by the commission, must be received at least thirty (30) days before the next regularly scheduled commission meeting. Applications completed fewer than thirty (30) days before the next regularly scheduled meeting may be scheduled for the following regularly scheduled meeting.

(5) Following the commission and board's review, the applicant will be informed by letter either that the application has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

AUTHORITY: sections 345.015 and 345.030, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated at \$9,478 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$947.80 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$9,566 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$956.60 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 150 - Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 - Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.205 Procedural Process for Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision

Estimated Cost of Compliance

State Board of Registration for the Healing Arts	Estimated Cost of Compliance for First Year of Implementation of the Rule	\$9,478.00
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Estimated Annual Cost of Compliance for the Life of the Rule	\$947.80
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III. WORKSHEET

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	200	\$652.00
Statute, Rules and Regulation Printing Cost	\$5.50	200	\$100.00
License Printing Cost	\$1.11	200	\$22.00
Application Mailing	\$1.70	200	\$340.00
Correspondence Mailing	\$3.33	200	\$66.00
License Mailing	\$2.90	200	\$58.00
Total:			1,238.00

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$25,188.00	\$32,925.75	\$15.83	.26	1.5 hours	\$23.40	\$4,680.00
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	10 minutes	\$3.30	\$660.00
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	15 minutes	\$9.15	\$1,830.00
Account Clerk II	\$21,522.00	\$28,133.56	\$13.53	.23	10 minutes	\$2.30	\$460.00
Clerk IV	\$24,684.00	\$32,266.92	\$15.51	.26	3 minutes	\$.78	\$156.00
Total:							\$7,786.00

The above staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration. The total cost was based on the cost per application multiplied by the estimated 200 applications.

It is estimated that approximately ten (10) applicants out of the total estimated two hundred (200) applicants may be assigned for investigative review. It is further estimated that if an investigative review is assigned an investigator will devote approximately two (2) hours investigating the applicant and/or situation, collecting the necessary documents and preparing an investigative report for the board's review. This would also include approximately thirty (30) minutes of a Clerk Stenographer II to assemble this information for board review, copy the report to the board, log the investigative in the computer system, etc.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Investigator	\$31,344.00	\$40,972.88	\$19.70	.33	2 hours	\$39.40	\$394.00
Clerk Stenographer II	\$19,260.00	\$25,176.67	\$12.10	.20	30 minutes	\$6.00	\$60.00
Total:							\$454.00

The above investigative staff salaries were calculated using the following formula:

Salaries of employees involved in the investigative process were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent investigating the applicant or the situations. The total cost was based on the cost per application multiplied by an estimated ten (10) applicants out of the total estimated two hundred (200) applicants that may be assigned for investigative review.

GRAND TOTAL FOR FIRST YEAR OF IMPLEMENTATION OF THE RULE: \$9,478.00

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration and devoted to the following duties:

Licensure Technician II – 1.5 hours per application

Duties: telephone time devoted to applicants requesting licensure application forms, answering inquiries relative to the documents necessary for licensure, processing the application, corresponding to the applicant acknowledging receipt of the application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 10 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the board.

Executive Director – 15 minutes per application

Duties: review applications directed to the board for review and approval. It is estimated that ten (200) out of the estimated two hundred (200) applications estimated to receive per year will require board review.

Account Clerk II – 10 minutes per application

Duties: enter fee as received and prepare a revenue transmittal, post the fee and reconcile the fee on a daily, monthly, and yearly basis

Clerk IV – 3 minutes per application

Duties: enter the fee on the daily fee log and disseminate the fee to the Licensure Supervisor.

- The board anticipates 200 individuals will apply for registration during the first year. The board estimates this registration process will cost the board approximately \$47.39 per application.
- The public entity cost for this proposed amendment is estimated to be \$9,478.00 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$947.80 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Department of Economic Development

Division: Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 – Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.205 Procedural Process for Registration

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate cost of compliance
200	Individuals (application)	\$5,000.00
200	Individuals (notary)	\$500.00
200	Individuals (transcript)	\$2,000.00
200	Individuals (verification)	\$2,000.00
200	Individuals (postage)	\$66.00

**Estimated Cost of Compliance for
the First Year of Implementation of
the Rule** **\$9,566.00**

**Estimated Annual Cost of
Compliance for the Life of the Rule** **\$956.60**

III. WORKSHEET

Application for Registration @ \$25.00.

Notary @ \$2.50

Transcript fee @ \$10.00

Verification of licensure, registration and/or certification fee @ \$10.00

Postage @ \$.33

IV. ASSUMPTIONS

- The board anticipates 200 individuals will apply for registration during the first year. The board estimates this registration process will cost each applicant approximately \$47.83
- The private entity cost for this proposed amendment is estimated to be \$9,566.00 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$956.60 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.210 Display of Certificate

PURPOSE: This rule details the requirements for displaying a speech-language pathology assistant certificate of registration.

All speech-language pathology assistants shall display the certificate issued by the State Board of Registration for the Healing Arts in a prominent place in each location of practice.

AUTHORITY: sections 345.015, 345.030 and 345.065, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$4,879.20 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 40 registrants per renewal period and estimates the biennial cost will be \$5,692.40 plus a continuous biennial increase of \$813.20 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 150—State Board of Registration for the
Healing Arts**

**Chapter 4—Licensing of Speech-Language Pathologists
and Audiologists**

PROPOSED RULE

4 CSR 150-4.215 Renewal of Certificate of Registration

PURPOSE: This rule details the process of renewing a speech-language pathology assistant certificate of registration.

Each registered speech-language pathology assistant shall pay the nonrefundable fee for renewal of the certificate of registration every two (2) years. The executive director shall not consider a registration to be renewed until the completed registration renewal form and the renewal fee have been received by the State Board of Registration for the Healing Arts.

AUTHORITY: sections 345.015, 345.030 and 345.051, RSMo Supp. 1999. Original rule filed Jan. 28, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated at \$3,847 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 10% in applicants and estimates the total annual cost will be \$4,167.80 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 150 – Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 - Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.215 Renewal of Certificate of Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision

Estimated Cost of Compliance

State Board of Registration for the Healing Arts	Estimated Cost of Compliance for First Year of Implementation of the Rule	\$3,847.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$4,167.80

III. WORKSHEET

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	240	\$652.00
Statute, Rules and Regulation Printing Cost	\$.50	240	\$100.00
License Printing Cost	\$.11	240	\$22.00
Application Mailing	\$1.70	240	\$340.00
Correspondence Mailing	\$.33	240	\$66.00
License Mailing	\$.29	240	\$58.00
Total:			\$1,238.00

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$25,188.00	\$32,925.75	\$15.83	.26	15 minutes	\$1.30	\$286.00
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	5 minutes	\$1.65	\$396.00
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	5 minutes	\$3.05	\$732.00
Account Clerk II	\$21,522.00	\$28,133.56	\$13.53	.23	10 minutes	\$2.30	\$552.00
Clerk IV	\$24,684.00	\$32,266.92	\$15.51	.26	3 minutes	\$.78	\$187.20
Total:							\$2,153.20

The above staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration renewal. The total cost was based on the cost per application multiplied by the estimated 240 applications for registration renewal.

It is estimated that approximately ten (10) licensees out of the total estimated two hundred (240) licensees for renewal may be assigned for investigative review. It is further estimated that if an investigative review is assigned an investigator will devote approximately two (2) hours investigating the applicant and/or situation, collecting the necessary documents and preparing an investigative report for the board's review. This would also include approximately thirty (30) minutes of a Clerk Stenographer II to assemble this information for board review, copy the report to the board, log the investigative in the computer system, etc.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Investigator	\$31,344.00	\$40,972.88	\$19.70	.33	2 hours	\$39.60	\$396.00
Clerk Stenographer II	\$19,260.00	\$25,176.67	\$12.10	.20	30 minutes	\$6.00	\$60.00
Total:							\$456.00

The above investigative staff salaries were calculated using the following formula:

Salaries of employees involved in the investigative process were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent investigating the applicant or the situations. The total cost was based on the cost per renewal of registration multiplied by an estimated ten (10) applicants out of the total estimated two hundred (240) applicants that may be assigned for investigative review.

GRAND TOTAL FOR FIRST YEAR OF IMPLEMENTATION OF THE RULE: \$3,847.00

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration renewal and devoted to the following duties:

Licensure Technician II – 15 minutes per application

Duties: telephone time devoted to applicants requesting renewal forms, answering inquiries relative to the documents necessary for renewal, processing the renewal application, corresponding to the applicant acknowledging receipt of the renewal application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 5 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the board.

Executive Director – 5 minutes per application

Duties: review renewal applications directed to the board for review and approval. It is estimated that ten (10) out of the estimated two hundred (240) renewal applications estimated to receive per year will require board review.

Account Clerk II – 10 minutes per application

Duties: enter fee as received and prepare a revenue transmittal, post the fee and reconcile the fee on a daily, monthly, and yearly basis

Clerk IV – 3 minutes per application

Duties: enter the fee on the daily fee log and disseminate the fee to the Licensure Supervisor.

- The board anticipates 240 individuals will apply for registration during the first year. The board estimates this renewal process will cost the board approximately \$16.03 per application.
- The public entity cost for this proposed amendment is estimated to be \$3,847.00 for the first year of implementation of the rule. The board is anticipating that 240 licensees will renew their registration during the first renewal period. Thereafter, the board will experience a biennial growth rate of 10% in licensees, which will increase the number of renewal registrations by 20 per year. The board estimates the total biennial cost will be \$4,167.80 for the life of the rule. It is anticipated that the total biennial cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Department of Economic Development

Division: Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 4 – Licensing of Speech-Language Pathologists and Audiologists

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-4.215 Renewal of Certificate of Registration

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the biennial as to the cost of compliance with the rule by the affected entities:
240	Individuals (application)	\$4,800.00
240	Individuals (postage)	\$79.20

**Estimated Cost of Compliance for
the First Year of Implementation of
the Rule** **\$4,879.20**

**Estimated Biennial Cost of
Compliance for the Life of the Rule** **\$5,692.40 plus a continuous
biennial increase of \$813.20**

III. WORKSHEET

Biennial Registration Renewal Fee @ \$20.00

Postage @ \$.33

IV. ASSUMPTIONS

- The board anticipates 240 individuals will apply for renewal of registration during the first renewal period. The board estimates this registration process will cost each applicant approximately \$20.33.
- The private entity cost for this proposed amendment is estimated to be \$4,879.20 for the first year of implementation of the rule based upon the board's estimate that 240 licensees will renew their registration during the first renewal period. It is anticipated that the total biennial cost will recur for the life of the rule, however, may vary with inflation and is expected to increase biennially at the rate projected by the Legislative Oversight Committee.
- The estimated biennial cost of compliance is calculated using the estimated cost of compliance for the first year of implementation of the rule plus an estimated annual growth rate of 10% in licensees. The board is anticipating an increase in the number of renewal registrants by thirty-one (31) per year. Therefore, the board estimates that the private entity cost to comply with the rule will be \$5,692.40 annually plus a continuous annual increase of \$813.20 for the life of the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 6—[Licensing] Registration of Athletic
Trainers**

PROPOSED AMENDMENT

4 CSR 150-6.020 Applicants for [Licensure] Registration as Athletic Trainers. The board is proposing to amend the title of this chapter by changing the term "Licensing" to "Registration"; amend the original purpose statement; add new sections (3), (4) and (5); and amend and renumber the remaining sections accordingly.

PURPOSE: The purpose of this amendment is to change the terminology used throughout the rule to be consistent with the terminology of sections 334.700–334.725, RSMo and specify the documents applicants for registration must submit to the board.

PURPOSE: This rule provides requirements to applicants desiring [permanent licensure] registration in Missouri to practice as athletic trainers.

(3) All applicants for registration shall present, attached to the application, a recent photograph, not larger than three and one-half inches by five inches (3 1/2" x 5").

(4) All applicants shall provide a functional protocol form(s), signed by a physician licensed to practice pursuant to Chapter 334, RSMo. The protocol form shall specify what procedures the athletic trainer may perform or initiate during the physician's absence. If practicing under the direction of more than one (1) physician the applicant shall submit a functional protocol form signed by each physician.

(5) All applicants shall provide verification of current National Athletic Trainers Association (NATA) Certification or proof of successful completion of the Missouri Athletic Trainers Registration Examination.

[[3]] (6) Proof which is acceptable to the board of experience and educational quality equal to that mentioned in section 334.708.1(1), RSMo is set forth in materials which are incorporated by reference and retained at the office of the board. The materials can be summarized in that the results of a role delineation study completed [in March 1982] by the National Athletic Trainers' Association (NATA) Board of Certification in conjunction with the Professional Examination Service, New York, New York, serve as a primary basis for development of a list of competencies. The role delineation study [was] is designed to identify actual job responsibilities and tasks performed by certified athletic trainers in high schools, colleges and professional athletic organizations throughout the United States and was conducted in an attempt to establish a valid base for construction of the national certification examination for athletic trainers. The list of competencies subsequently developed by the NATA Professional Education Committee serves as a guide to the development of educational programs leading to certification as an athletic trainer and is intended to assist both instructional personnel and students in identifying knowledge and skills to be mastered. Thus, educational backgrounds of registered athletic trainers in Missouri should follow these competencies. The competencies identified are categorized according to seven (7) major tasks comprising the role of the certified athletic trainer:

(A) Prevention of athletic injuries/illnesses;

(B) Evaluation and recognition of athletic injuries/illnesses and medical referral;

(C) First aid and emergency care;

(D) Rehabilitation and reconditioning;

(E) Organization and administration;

(F) Counseling and guidance; and

(G) Education. Although the necessary competencies identified for each major task are not stated as such, they are listed wherever appropriate according to the following commonly accepted method of classifying behavioral objectives:

1. Cognitive domain (knowledge and intellectual skills). Psychomotor domain (manipulative and motor skills) and, affective domain (attitudes and values). The materials will be made available to any interested person, upon written request, at a cost not to exceed the actual cost of reproduction.

[[4]] (7) The board shall charge each person applying for [licensure] registration to practice as an athletic trainer an appropriate fee, which will be established by the board. The fee shall be sent with the application and in the form of a bank draft, postal money order or express money order. (Personal checks will not be accepted.)

AUTHORITY: sections 334.125 and 334.706[.3(2)], RSMo [1986] Supp. 1999 and 334.702, 334.704, 334.708, 334.710 and 334.712, RSMo 1994. Emergency rule filed April 5, 1985, effective April 15, 1985, expired Aug. 13, 1985. Original rule filed May 3, 1985, effective Aug. 15, 1985. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts—Athletic Trainers Advisory Committee, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 6—Registration of Athletic Trainers**

PROPOSED RULE

4 CSR 150-6.025 Examination

PURPOSE: This rule provides specific instructions to applicants regarding examination procedures.

(1) The executive director will, as soon as practicable, notify applicants of the date, time and place the examination is scheduled to be held.

(2) The board shall conduct examination of applicants for registration to practice as an athletic trainer at least once each calendar year provided applicants support such administration.

(3) Any applicant detected to be seeking or giving help during the hours of the examination will be dismissed and his/her papers cancelled.

(4) To receive a passing score on the examination, the applicant must achieve the passing score recommended by the National Athletic Trainers Association or its successor. Scores from a portion of an examination taken at one (1) test administration may not be averaged with scores from any other portion of the examination taken at another test administration to achieve a passing score.

(5) An applicant may retake the examination for registration to practice as an athletic trainer upon payment of an appropriate fee established by the board.

AUTHORITY: section 334.706, RSMo Supp. 1999. Original rule filed Jan. 31, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated at \$25.89 annually for the life of the rule. It is anticipated that the cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$152.83 annually for the life of the rule. It is anticipated that the cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Healing Arts—Athletic Trainers Advisory Committee, 3605 Missouri Boulevard, P. O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 150 - Division of Professional Registration – State Board of Registration for the Healing Arts

Chapter: 6 – Registration of Athletic Trainers

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-6.025 Examination

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision

Estimated Annual Cost of Compliance

State Board of Registration for the Healing Arts

\$25.89

III. WORKSHEET

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	1	\$3.26
Statute, Rules and Regulation Printing Cost	\$.50	1	\$.50
License Printing Cost	\$.11	1	\$.11
Application Mailing	\$1.70	1	\$1.70
Correspondence Mailing	\$.33	1	\$.33
License Mailing	\$.29	1	\$.29
TOTAL			\$6.19

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician I	\$25,188.00	\$32,925.75	\$15.83	.26	45 minutes	\$11.70	\$11.70
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	15 minutes	\$4.95	\$4.95
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	5 minutes	\$3.05	\$3.05

Total: \$19.70

Staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration. The total cost was based on the cost per application multiplied by the estimated one (1) application.

GRAND TOTAL FOR FIRST YEAR OF IMPLEMENTATION OF THE RULE: \$25.89

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration and devoted to the following duties:

Licensure Technician I – 45 minutes per application

Duties: telephone time devoted to applicants requesting examination application forms, answering inquiries relative to the documents necessary for examination, processing the application, corresponding to the applicant acknowledging receipt of the application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 15 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the advisory committee.

Executive Director – 5 minutes per application

Duties: review applications directed to the advisory committee and possibly board for review and approval.

- The board anticipates one (1) individual will apply for the examination annually. The board estimates this application process will cost the board approximately \$25.89 per application.
- The public entity cost for this proposed rule is estimated to be \$25.89 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 150 - Division of Professional Registration-State Board of Registration for the Healing Arts

Chapter: 6 - Registration of Athletic Trainers

Type of Rulemaking: Propose Rule

Rule Number and Name: 4 CSR 150-6.025 Examination

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate Annual Cost of Compliance for the Life of the Rule:
1	Physician Assistant Applicants (licensure application fee)	\$150.00
1	Physician Assistant Applicants (notary)	\$2.50
1	Physician Assistant Applicants (postage)	\$.33

Total Annual Cost for the life of the rule: \$152.83

III. WORKSHEET

Licensure Application Fee @ \$150.00

Notary Fee @ \$2.50

Postage @ \$.33

IV. ASSUMPTIONS

1. The board estimates that approximately one (1) applicant will apply for licensure per year. The application fee is set out in 4 CSR 150-6.050.
2. It is not possible to estimate costs that an applicant could occur should the board investigate his/her background, such costs could include legal representation, delay of licensure approval, etc.
4. The private entity cost for this proposed rule is estimated to be \$152.83 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
**Division 150—State Board of Registration for the
Healing Arts**
**Chapter 6—[Licensing] Registration of Athletic
Trainers**

PROPOSED AMENDMENT

4 CSR 150-6.030 Registration by Reciprocity. The board is proposing to amend section (2), add new sections (4)–(7), and amend the previous section (4) and renumber the remaining section accordingly.

PURPOSE: This amendment specifies all requirements for athletic trainers seeking registration by reciprocity; section (4) requires licensure, certification and/or registration verification from other states; section (5) requires submission of a functional protocol form identifying the physician(s) designated and agreeing to be the athletic trainer's supervisor; section (6) requires photograph submission on the application form; section (7) specifies where applications shall be submitted.

(2) *[The]* All applicants *[is]* are required to make application upon *[a]* forms prescribed by the board.

(4) All applicants shall furnish, on a form prescribed by the board, verification of registration/licensure from every state, territory or country in which the applicant has ever been registered/licensed to practice as an athletic trainer.

(5) All applicants shall provide a functional protocol form(s), signed by a physician licensed to practice pursuant to Chapter 334, RSMo. The protocol form shall specify what procedures the athletic trainer may perform or initiate during the physician's absence. If practicing under the direction of more than one (1) physician the applicant shall submit a functional protocol form signed by each physician.

(6) All applicants for reciprocity shall present, attached to the application, a recent photograph, not larger than three and one-half inches by five inches (3 1/2" x 5").

(7) All applications shall be sent to the executive director of the State Board of Registration for the Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102.

[(4)](8) The board shall charge *[to]* an appropriate fee which will be established by the board to each person applying for registration by reciprocity as an athletic trainer. The fee shall be sent with the application and in the form of a bank draft, postal money order or express money order. (Personal checks will not be accepted.)

AUTHORITY: sections 334.125 and 334.706[.3(2)], RSMo [1986] Supp. 1999 and 334.702, 334.704, 334.708, 334.710 and 334.712, RSMo 1994. Emergency rule filed April 5, 1985, effective April 15, 1985, expired Aug. 13, 1985. Original rule filed May 3, 1985, effective Aug. 15, 1985. Amended: Filed April 4, 1988, effective Aug. 18, 1988. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts—Athletic Trainers Advisory

Committee, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
**Division 150—State Board of Registration for the
Healing Arts**
Chapter 6—Registration of Athletic Trainers

PROPOSED RULE

4 CSR 150-6.060 Renewal of Registration

PURPOSE: This rule provides information to athletic trainers regarding annual renewal of registration.

(1) A registration shall be renewed on or before the expiration of the registration by submitting the signed renewal notice, protocol form(s) and fee to the board. The registration fee shall be the appropriate fee established by the board.

(2) The board shall mail an application for renewal to each person registered in this state at the last known mailing address. The failure to mail the application or the failure to receive it does not, however, relieve any person of the duty to renew and to pay the fee required nor provide exemption from the penalties provided for failure to renew.

(3) All registrants shall renew with the board on the application form furnished by the board before January 30 of the year in which such registration is due for renewal.

(4) Renewal application forms postmarked by the post office January 31 or after will be considered delinquent, however, should January 30 fall on a Saturday, Sunday or legal holiday, renewal forms postmarked by the post office on the next business day will not be considered delinquent.

(5) Any person practicing as an athletic trainer without a current registration shall be subject to discipline under section 334.715, RSMo.

(6) A registrant not actively engaged in the practice of athletic training, but who wishes to renew his/her registration, must submit a statement advising the reason(s) why a protocol form is not completed.

AUTHORITY: sections 334.125 and 334.706, RSMo Supp. 1999 and 334.710, RSMo 1994. Original rule filed Jan. 31, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated at \$518.70 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of 31 licensees per renewal period and estimates the annual cost will be \$1,037.40 plus a continuous annual increase of \$518.70 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed rule is estimated to be \$1,560.23 for the first year of implementation of the rule based upon the board's estimate that 31 licensees will renew their registration during the first renewal period. The board

anticipates an annual growth rate of 31 licensees per year. Therefore, the board estimates that the private entity annual cost to comply with this rule will be \$3,120.46 plus an continuous annual increase of \$1,560.23 for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Healing Arts—Athletic Trainers Advisory Committee, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST****I. RULE NUMBER**

Title: 4 - Department of Economic Development

Division: 150 – Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 6 – Registration of Athletic Trainers

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-6.060 Renewal of Registration

II. SUMMARY OF FISCAL IMPACT**Affected Agency or Political Subdivision****Estimated Cost of Compliance**

State Board of Registration for the Healing Arts

Estimated Cost of Compliance for First
Year of Implementation of the Rule

\$518.70

Estimated Annual Cost of Compliance for
the Life of the Rule\$1,037.40 annually
plus a continuous
annual increase of
\$518.70**III. WORKSHEET**

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	31	\$101.06
Statute, Rules and Regulation Printing Cost	\$.50	31	\$15.50
License Printing Cost	\$.11	31	\$3.41
Application Mailing	\$1.70	31	\$52.70
Correspondence Mailing	\$.33	31	\$10.23
License Mailing	\$.29	31	\$8.99
Total:			\$191.89

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$25,188.00	\$32,925.75	\$15.83	.26	15 minutes	\$1.30	\$40.03
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	5 minutes	\$1.65	\$51.15
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	5 minutes	\$3.05	\$94.55
Account Clerk II	\$21,522.00	\$28,133.56	\$13.53	.23	10 minutes	\$2.30	\$71.30
Clerk IV	\$24,684.00	\$32,266.92	\$15.51	.26	3 minutes	\$.78	\$24.18
Total:							\$281.21

The above staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration renewal. The total cost was based on the cost per application multiplied by the estimated thirty-one (31) applications for registration renewal.

It is estimated that approximately one (1) licensee out of the total estimated thirty-one (31) licensees for renewal may be assigned for investigative review. It is further estimated that if an investigative review is assigned an investigator will devote

approximately two (2) hours investigating the applicant and/or situation, collecting the necessary documents and preparing an investigative report for the board's review. This would also include approximately thirty (30) minutes of a Clerk Stenographer II to assemble this information for board review, copy the report to the board, log the investigative in the computer system, etc.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Investigator	\$31,344.00	\$40,972.88	\$19.70	.33	2 hours	\$39.60	\$39.60
Clerk Stenographer II	\$19,260.00	\$25,176.67	\$12.10	.20	30 minutes	\$6.00	\$6.00
Total:							\$45.60

The above investigative staff salaries were calculated using the following formula:

Salaries of employees involved in the investigative process were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent investigating the applicant or the situations. The total cost was based on the cost per renewal of registration multiplied by an estimated one (1) licensee out of the total estimated thirty-one (31) licensees that may be assigned for investigative review.

ANNUAL FOR THE LIFE OF THE RULE: \$518.70

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration renewal and devoted to the following duties:

Licensure Technician II – 15 minutes per application

Duties: telephone time devoted to applicants requesting renewal forms, answering inquiries relative to the documents necessary for renewal, processing the renewal application, corresponding to the applicant acknowledging receipt of the renewal application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 5 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the board.

Executive Director – 5 minutes per application

Duties: review renewal applications directed to the board for review and approval. It is estimated that one (1) out of the estimated thirty-one (31) renewal applications estimated to receive per year will require board review.

Account Clerk II – 10 minutes per application

Duties: enter fee as received and prepare a revenue transmittal, post the fee and reconcile the fee on a daily, monthly, and yearly basis

Clerk IV – 3 minutes per application

Duties: enter the fee on the daily fee log and disseminate the fee to the Licensure Supervisor.

- The board anticipates thirty-one (31) individuals will apply for renewal annually. The board estimates this renewal process will cost the board approximately \$16.72 per application.
- The public entity cost for this proposed rule is estimated at \$518.70 for the first year of implementation of the rule. Thereafter, the board is anticipating an annual growth rate of thirty-one (31) licensees per renewal period and estimates the annual cost will be \$1,037.40 plus a continuous annual increase of \$518.70 for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Department of Economic Development

Division: Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 6 – Registration of Athletic Trainers

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-6.060 Renewal of Registration

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the annuals to the cost of compliance with the rule by the affected entities:
31	Individuals (application)	\$1,550.00
31	Individuals (postage)	\$10.23

Estimated Cost of Compliance for
First Year of Implementation of the
Rule

\$1,560.23

Estimated Annual Cost of
Compliance for the Life of the Rule

\$3,120.46 annually plus a continuous
annual increase of \$1,560.23

III. WORKSHEET

Annual Registration Renewal Fee @ \$50.00

Postage @ \$.33

IV. ASSUMPTIONS

- The board anticipates thirty-one (31) individuals will apply for renewal of registration during the first renewal period. The board estimates this registration process will cost each applicant approximately \$50.33.
- The private entity cost for this proposed rule is estimated to be \$1,560.23 for the first year of implementation of the rule based upon the board's estimate that thirty-one (31) licensees will renew their registration during the first renewal period. The board anticipates an annual growth rate of thirty-one (31) licensees per year. Therefore, the board estimates that the private entity annual cost to comply with this rule will be \$3,120.46 plus an continuous annual increase of \$1,560.23 for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 6—Registration of Athletic Trainers**

PROPOSED RULE

**4 CSR 150-6.070 Name, Address and/or Physician Supervision
Changes**

PURPOSE: This rule outlines the requirements and procedures athletic trainers must adhere to in notifying the board of name and/or address changes or a change of team and/or consulting physician supervisor.

(1) All individuals practicing as a registered athletic trainer under registration issued by the board shall ensure that his/her current registration certificate bears the current legal name of that individual.

(2) A registrant whose name has changed since registration was issued must submit a copy of the legal document verifying the name change to the board within fifteen (15) days of such change.

(3) Registrants must submit written notification of any address change, home or business, to the board within fifteen (15) days of such change.

(4) A registrant who has a change in their team physician and/or consulting physician shall submit to the board a new functional protocol form within fifteen (15) days of such change.

AUTHORITY: section 334.706, RSMo Supp. 1999. Original rule filed Jan. 31, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Healing Arts—Athletic Trainers Advisory Committee, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED AMENDMENT

4 CSR 150-7.100 Applicants for [Registration] Licensure. The board is proposing to amend the original purpose statement, amend sections (10), (13), (14) and (15) and delete the forms that immediately follow this rule in the *Code of State Regulations*.

PURPOSE: The board proposes amendments to this rule changing the term "registration" to "licensure" as applicable to physician assistants; and other grammatically necessary changes thereof, consistent with legislative amendments to Chapter 334, RSMo as enacted with the passage of House Bill 1601 in 1998.

PURPOSE: This rule provides information regarding requirements to applicants desiring [registration] licensure in Missouri for practice as a physician assistant.

(10) Applicants shall submit the [registration] licensure application fee in the form of a cashier's check or money order drawn on or through a United States bank made payable to the [Missouri Board of Healing Arts] State Board of Registration for the Healing Arts. Personal checks will not be accepted.

(13) When an applicant has filed an application and an appropriate fee, to be established by the board in conjunction with the director of the Division of Professional Registration for [registration] licensure and the application is denied by the board or subsequently withdrawn by the applicant, that fee will be retained by the board as a service charge.

(14) The board may require the applicant to make a personal appearance before the board and/or commission prior to rendering a final decision regarding [registration] licensure.

(15) An applicant may withdraw an application for [registration] licensure anytime prior to the board's vote on the applicant's candidacy for [registration] licensure.

AUTHORITY: sections 334.125, 334.735, [RSMo Supp. 1996 and] 334.738, [and] 334.742, and 334.743, RSMo [1994] Supp. 1999. Emergency rule filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 3, 1997, effective July 30, 1997. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED AMENDMENT

4 CSR 150-7.120 [Registration] Licensure Renewal. The board proposes amendments to sections (1), (2) and (3).

PURPOSE: The amendments proposed to sections (1), (2) and (3) of this rule change the term "registered" to "licensed" as applicable to physician assistants; and other grammatically necessary changes as a result thereof. These changes are proposed consistent with legislative amendments to Chapter 334, RSMo enacted with the passage of House Bill 1601 in 1998.

PURPOSE: This rule provides information to physician assistants [registered] licensed in Missouri regarding renewal of [registration] licensure.

(1) The *[registration]* licensure renewal fee shall be an appropriate fee established by the board. Each applicant shall *[register]* **make application for licensure renewal** with the board on *[a]* **application** forms furnished by the board, before January 31 of the year the *[registration]* license is due for renewal.

(2) The failure to mail the application form or the failure to receive the **licensure registration** renewal application form does not relieve any *[registrant]* licensee of the duty to renew *[the registration]* the license and pay the renewal fee, nor shall it exempt any *[registrant]* licensee from the penalties provided in sections 334.735 to 334.748, RSMo for failure to renew.

(3) **Licensure** *[R]*/renewal forms postmarked by the post office February 1 or after will be considered delinquent, however, should January 31 fall on a Saturday, Sunday or legal holiday, renewal forms postmarked by the post office on the next business day will not be considered delinquent.

AUTHORITY: sections 334.125, 334.735, [RSMo Supp. 1997 and] 334.738 and 334.743, RSMo [Supp. 1998] Supp. 1999. Emergency rule filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Original rule filed April 2, 1992, effective Dec. 3, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED AMENDMENT

4 CSR 150-7.122 Supervision, Name and Address Change Requirements, Retirement Affidavits. The board proposes amendments to the Purpose and sections (1), (2), (3) and (4) of this rule changing terminology consistent with legislative amendments to sections 334.735–334.749, RSMo as enacted with the passage of House Bill 1601 in 1998.

PURPOSE: The amendments proposed to sections (1), (2), (3) and (4) change the term “registered” to “licensed” as applicable to physician assistants, and other grammatically necessary changes, consistent with legislative amendments to Chapter 334, RSMo enacted with the passage of House Bill 1601 in 1998.

PURPOSE: This rule provides the requirements and time frames [registrants] licensees must follow in reporting a change in supervision, name and/or address change, or to document retirement from practice.

(1) *[Registrants]* **Licensed physician assistants** who have a change of physician supervision, for any reason, must submit written notification and the required form to the board within fifteen (15) days of such occurrence.

(2) *[Registrants]* **Licensed physician assistants** must submit written notification of any address change to the board within fifteen (15) days of such occurrence.

(3) *[Registrants]* **Licensed physician assistants** whose name has changed since *[registration]* licensure was issued must submit a copy of the legal document verifying the name change to the board, within fifteen (15) days of such occurrence.

(4) *[Registrants]* **Licensed physician assistants** who retire from practice as a physician assistant shall file an affidavit, on a form furnished by the board, stating the date of retirement. The *[registrant]* licensee shall submit any other documentation requested by the board to verify retirement. *[Registrants]* **Licensees** who reengage in practice as a physician assistant after submitting an affidavit of retirement shall reapply for *[registration]* licensure as required in sections 334.735 and *[334.748]* **334.738**, RSMo and pursuant to the provisions of **rule 4 CSR 150-7.125**.

AUTHORITY: sections 334.125, 334.735, [RSMo Supp. 1996 and] 334.738 and 334.743, RSMo [1994] Supp. 1999. Original rule filed Jan. 3, 1997, effective July 30, 1997. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED AMENDMENT

4 CSR 150-7.125 Late Registration and Reinstatement Applicants. The board is amending the Purpose and sections (1), (5), (9), (10) and (11).

PURPOSE: The board proposes amendments to the original purpose statement as well as to sections (1), (9), (10), and (11) of this rule changing the term “registered” to “licensed” and other grammatically necessary changes consistent with the legislative amendments to Chapter 334, RSMo as enacted with the passage of House Bill 1601 in 1998.

PURPOSE: This rule provides information to physician assistants [registered] licensed in Missouri regarding penalty of not renewing.

(1) Whenever a *[registered]* **licensed** physician assistant fails to renew his/her *[registration]* license before the *[registration]* license expiration date, his/her application for renewal of *[registration]* license shall be denied unless it is accompanied by all fees required by statute and rule, together with a statement of all addresses where s/he has practiced and resided since the expiration of his/her last period of *[registration]* licensure, the nature of his/her practice since expiration and whether, since expiration, any registration or license, or right of his/her to practice in any other

state or country has been suspended or revoked; whether s/he has been the subject of any disciplinary action by any licensing agency of any state or country or by any professional organization or society; whether s/he has been charged or convicted of any crime in any court of any state or country; whether s/he has been addicted to a drug habit or has been guilty of any unprofessional or dishonorable conduct as defined by section 334.100, RSMo; and all details pertaining to all those occurrences. This statement shall be completed upon forms provided by the board and shall be made by the applicant under oath.

(5) All applicants shall submit the renewal fee along with the delinquent fee established by the board. This fee shall be submitted in the form of a cashier's check or money order drawn on a United States bank made payable to the [Missouri Board of Healing Arts] State Board of Registration for the Healing Arts. Personal checks will not be accepted.

(9) Applicants whose [registration] license has been revoked, suspended or inactive for more than two (2) years shall submit any other documentation requested by the board necessary to verify that the [registrant] licensee is competent to practice and is knowledgeable of current medical techniques, procedures and treatments, as evidenced by continuing education hours, reexamination, or other applicable documentation acceptable and approved by the board pursuant to the provisions of section 334.100.6, RSMo.

(10) The board may require an applicant to make a personal appearance before the board and/or commission prior to rendering a final decision regarding [registration] license renewal/reinstatement.

(11) An applicant may withdraw his/her application for [registration] license anytime prior to the board's vote on the applicant's candidacy for [registration] license renewal/reinstatement.

AUTHORITY: sections 334.125, 334.735, [RSMo Supp. 1996 and] 334.738 and 334.743, RSMo [1994] Supp. 1999. Emergency rule filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 3, 1997, effective July 30, 1997. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 150—State Board of Registration for the Healing Arts Chapter 7—Physician Assistants

PROPOSED AMENDMENT

4 CSR 150-7.140 Grounds for Discipline, Procedures. The board is amending sections (1)–(6).

PURPOSE: The board proposes amendments to sections (1), (2)(D)14., (2)(D)17., (2)(D)19., (2)(H), (2)(J), (2)(L), (2)(P), (2)(W)2., (3), (4), (5), (6) of this rule changing the term "registered" to "licensed" and other grammatically necessary changes consistent with the legislative amendments to Chapter 334, RSMo as enacted with the passage of House Bill 1601 in 1998.

(1) The board may refuse to issue or renew any physician assistant [registration] license required pursuant to this chapter for one (1) or any combination of causes stated in section (2) of this rule. The board shall notify the physician assistant in writing of the reasons for the refusal and shall advise the physician assistant of their right to file a complaint with the Administrative Hearing Commission as provided by Chapter 621, RSMo.

(2) The board may cause a complaint to be filed with the Administrative Hearing Commission as provided by Chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered a certificate of registration or authority, permit or license for any one (1) or any combination of the following causes:

(D) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to the following:

PUBLISHER'S NOTE: Paragraphs (2)(D)1.–13. remain as published in the Code of State Regulations.

14. Failure to timely pay [registration] license renewal fees specified in this chapter;

15. Violating a probation agreement with this board or any other licensing or regulatory agency;

16. Failing to inform the board of the physician assistant's current residence and business address;

17. Advertising by an applicant or [registered] licensed physician assistant which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician assistant. An applicant or [registered] licensed physician assistant shall also be in violation of this provision if s/he has a financial interest in any organization, corporation or association which issues or conducts such advertising;

18. Violation of one (1) or any combination of the standards listed in the American Academy of Physician Assistants' Code of Ethics. The board adopts and incorporates by reference the American Academy of Physician Assistants' Code of Ethics. A copy of the American Academy of Physician Assistants' Code of Ethics is retained at the office of the board and is available to any interested person, upon written request, at a cost not to exceed the actual cost of reproduction; and

19. Loss of national certification, for any reason, shall result in the termination of [registration] licensure;

(H) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for [registration] licensure or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the physician assistant or applicant, including, but not limited to, the denial of licensure or registration, surrender of the license or registration, allowing physician assistant license or registration to expire or lapse, or discontinuing or limiting the practice of the physician assistant while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed

forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(J) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not *[registered]* **licensed** and currently eligible to practice under this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice who is not *[registered]* **licensed** and currently eligible to practice under this chapter;

(L) Failure to display a valid *[certificate or registration]* **license** as required by this chapter;

(P) Using, or permitting the use of, his/her name under the designation of "physician assistant," "*[registered]* **licensed** physician assistant," "physician assistant-certified," or any similar designation with reference to the commercial exploitation or product endorsement of any goods, wares or merchandise;

(W) Being unable to practice as a physician assistant or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition.

1. In enforcing this paragraph the board shall, after a hearing by the board, upon a finding of probable cause, require a physician assistant to submit to a reexamination for the purpose of establishing his/her competency to practice as a physician assistant or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of said physician assistant's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three (3) physician assistants, one (1) selected by the physician assistant compelled to take the examination, one (1) selected by the board, and one (1) selected by the two (2) physician assistants so selected who are graduates of a professional school approved and accredited by the Commission for the Accreditation of Allied Health Education Programs and has active certification by the National Commission on Certification of Physician Assistants.

2. For the purpose of this paragraph, every physician assistant *[registered]* **licensed** under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that same is privileged.

3. In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician assistant or applicant without the physician assistant's or applicant's consent.

4. Written notice of the reexamination or the physical or mental examination shall be sent to the physician assistant, by registered mail, addressed to the physician assistant at his/her last known address. Failure of a physician assistant to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against him/her, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond his/her control. A physician assistant/ *s/* whose right to practice has been affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that s/he can resume competent practice as a physician assistant with reasonable skill and safety to patients.

5. In any proceeding under this paragraph neither the record of proceedings nor the orders entered by the board shall be used against a physician assistant in any other proceeding. Proceedings under this paragraph shall be conducted by the board without the filing of a complaint with the *[a]*Administrative *[h]*Hearing *[c]*Commission.

6. When the board finds any person unqualified because of any of the grounds set forth in this paragraph, it may enter an order imposing one (1) or more of the disciplinary measures set forth in section (4) of this rule.

(3) After the filing of such complaint, before the Administrative Hearing Commission, the proceedings shall be conducted in accordance with the provisions of Chapter 621, RSMo. Upon a finding by the Administrative Hearing Commission that the grounds, provided in section (2) of this rule, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the *[compliant]* **complaint** on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten (10) years, or may suspend *[registration,]* license, certificate or permit for a period not to exceed ten (10) years, or restrict or limit his/her *[registration]* license, certificate or permit for an indefinite period of time, or revoke his/her *[registration,]* license, certificate, or permit for an indefinite period of time, or revoke his/her *[registration,]* license, certificate or permit, or administer a public or private reprimand, or deny his/her application for *[registration]* **license**, or permanently withhold issuance of *[registration]* **license** or require the physician assistant to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the physician assistant to attend such continuing educational courses and pass such examinations as the board may direct.

(4) In any order of revocation, the board may provide that the person may not apply for reinstatement of *[registration]* **license** for a period of time ranging from two to seven (2-7) years following the date of the order of revocation. All stay orders shall toll this time period.

(5) Before restoring to good standing a *[registration,]* license, certificate or permit issued under this chapter which has been in a revoked, suspended or inactive state for any cause for more than two (2) years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.

(6) In any investigation, hearing or other proceeding to determine a *[registered]* **licensed** physician assistant's or applicant's fitness to practice, any record relating to any patient of the *[registered]* **licensed** physician assistant or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such *[registrant]* **licensee**, applicant, record custodian or patient might otherwise invoke. In addition, no such *[registered]* **licensed** physician assistant, applicant, or record custodian may withhold records or testimony bearing upon a *[registrant's]* **licensee's** or applicant's fitness to practice on the ground of privilege between such physician assistant *[registrant]* **licensee**, applicant or record custodian and a patient.

AUTHORITY: sections 334.100, 334.125, 334.735, *[RSMo Supp. 1996]* 334.736, *[and]* 334.741, and 334.743, *RSMo [1994] Supp. 1999. Emergency rule filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 3, 1997, effective July 30, 1997. Amended: Filed Jan. 31, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, Tina Steinman, Executive Director, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED AMENDMENT

4 CSR 150-7.200 Fees. The board proposes amendments to subsections (1)(A), (1)(E) and (1)(F).

PURPOSE: The board proposes amendments subsections (1)(A), (E) and (F) changing the term "Registration" to "Licensure" consistent with legislative amendments to Chapter 334, RSMo enacted with the passage of House Bill 1601 in 1998.

(1) The following fees are established by the Missouri State Board of Registration for the Healing Arts in conjunction with the director of the Division of Professional Registration:

(A) [Registration] Licensure Application Fee	\$195.00
(E) Temporary [Registration] Licensure Fee	\$ 50.00
(F) Temporary [Registration] Licensure Renewal Fee	\$ 50.00.

AUTHORITY: sections 334.125, 334.735, 334.736, [RSMo Supp. 1995 and] 334.738 and 334.743, RSMo [1994] Supp. 1999. Emergency rule filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Original rule filed April 2, 1992, effective Dec. 3, 1992. Amended: Filed April 16, 1996, effective Nov. 30, 1996. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED RULE

4 CSR 150-7.300 Applicants for Temporary Licensure

PURPOSE: This rule provides the requirements to apply for physician assistant temporary licensure.

(1) Applicants for temporary licensure are required to make application on forms prepared by the board.

(2) No application will be considered unless fully and completely made out on the specified forms and properly attested.

(3) Applications shall be sent to the State Board of Registration for the Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102.

(4) The fee for temporary licensure shall be an appropriate fee, to be established by the board. The fee shall be sent in the form of a cashier's check or money order drawn on a United States bank or firm; payable to the State Board of Registration for the Healing Arts. Personal and/or corporate checks will not be accepted. No application will be processed until the licensure fee is received.

(5) All applicants shall attach to the application a recent photograph not larger than three and one-half inches by five inches (3 1/2" × 5").

(6) All applicants are required to submit satisfactory evidence of completion of a physician assistant program accredited by the Committee on Allied Health, Education and Accreditation of the American Medical Association, or its successor. Applicants shall submit official transcripts from their school of graduation confirming the degree awarded and date of degree award or a copy of their diploma.

(7) All applicants are required to submit a letter of reference from the director of the physician assistant program from which the applicant graduated as proof of the applicant's moral character.

(8) All applicants are required to submit verification of licensure, registration or certification from every state or territory in which the applicant is or has ever been licensed, registered or certified to practice as a physician assistant; and all other professional licenses, registrations, or certifications issued to the applicant regardless of whether or not such license, registration or certification is current.

(9) All applicants shall submit a complete curriculum vitae. This document must include the names and addresses of all previous employers, supervisors and job titles, from the date of high school graduation to the date of licensure application.

(10) All applicants shall furnish, on forms provided by the board, verification of physician supervision.

(11) Each applicant shall instruct the National Commission on Certification of Physician Assistants to submit the applicant's admission letter for the certification examination; such letter shall specify the date the applicant is scheduled to take the certification examination.

(12) Each applicant shall instruct the National Commission on Certification of Physician Assistants to submit the applicant's certification examination results directly to the board.

(13) The temporary license shall be valid until the examination results are received by the board, not to exceed three (3) weeks following the mailing of the results by the National Commission on Certification of Physician Assistants.

(14) The temporary license shall automatically terminate if the temporary licensee fails the examination or does not sit for the examination as scheduled. The temporary licensee may apply for temporary licensure renewal pursuant to rule 4 CSR 150-7.310.

(15) Temporary licensees may be issued permanent licensure upon successful passage of the National Commission on Certification of Physician Assistants examination as determined by the National

Commission on Certification of Physician Assistants; submission/completion of all the requirements specified in rule 4 CSR 150-7.100, an updated activities statement, the application form and application fee.

(16) When an applicant has filed his/her application and the appropriate fee for temporary licensure, and the applicant is denied by the board pursuant to the provisions of section 334.100, RSMo and/or rule 4 CSR 150-7.140, or is subsequently withdrawn by the applicant, the fee will be retained by the board pursuant to the provisions of rule 4 CSR 150-7.200.

(17) The board may require the applicant for temporary licensure to make a personal appearance before the advisory commission and/or board before a final decision regarding licensure is rendered.

(18) An applicant may withdraw his/her application for temporary licensure any time prior to the board's vote on his/her candidacy for licensure.

AUTHORITY: sections 334.100, 334.125, 334.735, 334.736, 334.738, 334.742, 334.743, 334.745 and 334.749, RSMo Supp. 1999. Original rule filed Jan. 31, 2000.

PUBLIC COST: The public entity cost for this proposed amendment is estimated at \$336.49 annually for the life of the rule. It is anticipated that the cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed amendment is estimated at \$706.79 annually for the life of the rule. It is anticipated that the cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 150 - Division of Professional Registration – State Board of Registration for the Healing Arts

Chapter: 7 – Physician Assistants

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-7.300 Application for Temporary Licensure

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision

Estimated Annual Cost of Compliance

State Board of Registration for the Healing Arts

\$336.49

III. WORKSHEET

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	13	\$42.38
Statute, Rules and Regulation Printing Cost	\$.50	13	\$6.50
License Printing Cost	\$.11	13	\$1.43
Application Mailing	\$1.70	13	\$22.10
Correspondence Mailing	\$.33	13	\$4.29
License Mailing	\$.29	13	\$3.77
TOTAL			\$80.39

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician I	\$25,188.00	\$32,925.75	\$15.83	.26	45 minutes	\$11.70	\$152.10
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	15 minutes	\$4.95	\$64.35
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	5 minutes	\$3.05	\$39.65
Total:							\$256.10

Staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration. The total cost was based on the cost per application multiplied by the estimated thirteen (13) applications.

GRAND TOTAL FOR FIRST YEAR OF IMPLEMENTATION OF THE RULE: \$336.49

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration and devoted to the following duties:

Licensure Technician I – 45 minutes per application

Duties: telephone time devoted to applicants requesting licensure application forms, answering inquiries relative to the documents necessary for licensure, processing the application, corresponding to the applicant acknowledging receipt of the application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 15 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the advisory committee.

Executive Director – 5 minutes per application

Duties: review applications directed to the advisory committee and possibly board for review and approval.

- The board anticipates thirteen (13) individuals will apply for registration annually. The board estimates this application process will cost the board approximately \$25.89 per application.
- The public entity cost for this proposed amendment is estimated to be \$336.49 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: 150 - Division of Professional Registration-State Board of Registration for the Healing Arts

Chapter: 7 - Physician Assistants

Type of Rulemaking: Propose Rule

Rule Number and Name: 4 CSR 150-7.300 Applicants for Temporary Licensure

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate Annual Cost of Compliance for the Life of the Rule:
13	Physician Assistant Applicants (temporary licensure application)	\$650.00
2	Physician Assistant Applicants (state verification of licensure)	\$20.00
13	Physician Assistant Applicants (notary)	\$32.50
13	Physician Assistant Applicants (postage)	\$4.29

**Total Annual Cost for the life of
the rule:**

\$706.79

III. WORKSHEET

Temporary Licensure Application @ \$50.00
State Verification of Licensure Fee @ \$10.00
Notary Fee @ \$2.50
Postage @ \$.33

IV. ASSUMPTIONS

1. The board estimates that approximately 13 physician assistant new graduates will apply for temporary licensure per year. The application fee is set out in 4 CSR 150-7.200.
2. The board estimates \$10.00 for state licensure verification. This cost figure was based on a comparison of costs per state which indicated that the vast majority of states require a \$10.00 verification fee. The board assumes only 1% of the total estimated applicants applying for temporary licensure will be or have been licensed to practice in another state.

3. It is not possible to estimate costs that an applicant could occur should the board investigate his/her background, such costs could include legal representation, delay of licensure approval, etc.
4. The private entity cost for this proposed amendment is estimated to be \$706.79 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 7—Physician Assistants**

PROPOSED RULE

4 CSR 150-7.310 Applicants for Temporary Licensure Renewal

PURPOSE: This rule provides the requirements to apply for physician assistant temporary licensure renewal.

(1) Physician assistant temporary licensees who fail the National Commission on Certification of Physician Assistant Examination on their first sitting or who do not take the examination as scheduled may apply for temporary licensure renewal one (1) time. Temporary licensure renewal will be determined at the discretion of the board, on an individual basis.

(2) Applicants for temporary licensure renewal are required to make application on forms prepared by the board.

(3) No application will be considered unless fully and completely made out on the specified forms and properly attested.

(4) Applications shall be sent to the State Board of Registration for the Healing Arts, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102.

(5) The fee for temporary licensure renewal shall be an appropriate fee, to be established by the board. The fee shall be sent in the form of a cashier's check or money order drawn on a United States bank and/or firm, payable to the State Board of Registration for the Healing Arts. Personal and/or corporate checks will not be accepted. No application will be processed until the temporary licensure renewal fee is received.

(6) All applicants shall furnish an updated curriculum vitae detailing activities and employment since issuance of original temporary license.

(7) Each applicant shall instruct the National Commission on Certification of Physician Assistants to submit the applicant's admission letter for the certification examination; such letter shall specify the date the applicant is scheduled to take the certification examination.

(8) Applicants applying for temporary licensure renewal due to failure of the certification examination, as determined by the National Commission on Certification of Physician Assistants, are required to inform their supervising physician, in writing, of the examination results. A copy of this notification must be submitted to the board with the licensure renewal application.

(9) Applicants applying for temporary licensure renewal due to failure to take the certification examination as scheduled must show good and exceptional cause, verified under oath, as to the circumstances, which prevented the applicant/temporary licensee from taking the examination as scheduled. Good and exceptional cause shall include:

- (A) Death in the immediate family;
- (B) Illness documented by physician statement;
- (C) Accident;
- (D) Jury duty; and
- (E) Other exceptional causes as determined by the board.

(10) Each applicant shall instruct the National Commission on Certification of Physician Assistants to submit the applicant's certification examination results directly to the board.

(11) The renewed temporary license shall be valid until the examination results are received by the board, not to exceed three (3) weeks following the mailing of the results by the National Commission on Certification of Physician Assistants.

(12) The renewed temporary license will automatically terminate if the licensee fails the examination or does not sit for the examination as scheduled.

(13) Temporary licensees may be issued permanent licensure upon successful passage of the National Commission on Certification of Physician Assistants Examination as determined by the National Commission on Certification of Physician Assistants; submission/completion of all the requirements specified in rule 4 CSR 150-7.100, an updated activities statement, the application form and application fee.

(14) When an applicant has filed his/her application and the appropriate fee for temporary licensure renewal, and the applicant is deemed to be ineligible or denied by the board pursuant to the provisions of section 334.100, RSMo and/or rule 4 CSR 150-7.140, or is subsequently withdrawn by the applicant, the fee will be retained by the board pursuant to the provisions of rule 4 CSR 150-7.200.

(15) The board may require an applicant for temporary licensure renewal to make a personal appearance before the advisory commission and/or board prior to rendering a final decision regarding temporary licensure renewal.

(16) An applicant may withdraw his/her application for temporary licensure renewal anytime prior to the board's vote on the application.

AUTHORITY: sections 334.100, 334.125, 334.735, 334.736, 334.738, 334.742, 334.743, 334.745 and 334.749, RSMo Supp. 1999. Original rule filed Jan. 31, 2000.

PUBLIC COST: The public entity cost for this proposed rule is estimated to be \$244.11 annually for the cost life of the rule. It is anticipated that the cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: The private entity cost for this proposed rule is estimated at \$264.29 annually for the life of the rule. It is anticipated that the cost will recur each year for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Registration for the Healing Arts—Advisory Commission for Physician Assistants, 3605 Missouri Boulevard, P.O. Box 4, Jefferson City, MO 65102, (573) 751-0098. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC ENTITY COST****I. RULE NUMBER**

Title: 4 - Department of Economic Development

Division: 150 – Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 7 – Physician Assistants

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-7.310 Applicants for Temporary Licensure Renewal

II. SUMMARY OF FISCAL IMPACT**Affected Agency or Political Subdivision****Estimated Annual Cost of Compliance****State Board of Registration for the
Healing Arts****\$244.11****III. WORKSHEET**

Expenditure of Money or Reduction in Income

CLASSIFICATION	FEE AMOUNT	NUMBER IN CLASS	AGGREGATE COST
Application Printing Cost	\$3.26	13	\$42.38
Statute, Rules and Regulation Printing Cost	\$.50	13	\$6.50
License Printing Cost	\$.11	13	\$1.43
Application Mailing	\$1.70	13	\$22.10
Correspondence Mailing	\$.33	13	\$4.29
License Mailing	\$.29	13	\$3.77
Total:			\$80.47

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$25,188.00	\$32,925.75	\$15.83	.26	15 minutes	\$1.30	\$16.90
Director of Operations	\$31,932.00	\$41,741.51	\$20.07	.33	5 minutes	\$1.65	\$21.45
Executive Director	\$58,215.36	\$76,099.12	\$36.59	.61	5 minutes	\$3.05	\$39.65
Account Clerk II	\$21,522.00	\$28,133.56	\$13.53	.23	10 minutes	\$2.30	\$29.90
Clerk IV	\$24,684.00	\$32,266.92	\$15.51	.26	3 minutes	\$.78	\$10.14
Total:							\$118.04

The above staff salaries were calculated using the following formula:

Employee's salaries were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications for registration renewal. The total cost was based on the cost per application multiplied by the estimated thirteen (13) applications for registration renewal.

It is estimated that approximately one (1) licensee out of the total estimated thirteen (13) licensees for renewal may be assigned for investigative review. It is further estimated that if an investigative review is assigned an investigator will devote approximately two (2) hours investigating the applicant and/or situation, collecting the necessary documents and preparing an investigative report for the board's review. This would also include approximately thirty (30) minutes of a Clerk

Stenographer II to assemble this information for board review, copy the report to the board, log the investigative in the computer system, etc.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Investigator	\$31,344.00	\$40,972.88	\$19.70	.33	2 hours	\$39.60	\$39.60
Clerk Stenographer II	\$19,260.00	\$25,176.67	\$12.10	.20	30 minutes	\$6.00	\$6.00
Total:							\$45.60

The above investigative staff salaries were calculated using the following formula:

Salaries of employees involved in the investigative process were calculated using their annual salary multiplied by 30.72% for fringe benefits and then was divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent investigating the applicant or the situations. The total cost was based on the cost per renewal of registration multiplied by an estimated one (1) applicant out of the total estimated thirteen (13) applicants that may be assigned for investigative review.

ANNUAL FOR THE LIFE OF THE RULE: \$244.11

IV. ASSUMPTIONS

- It is estimated that the following staff time will be devoted on each application for registration renewal and devoted to the following duties:

Licensure Technician II – 15 minutes per application

Duties: telephone time devoted to applicants requesting renewal forms, answering inquiries relative to the documents necessary for renewal, processing the renewal application, corresponding to the applicant acknowledging receipt of the renewal application and advising of lacking documentation, updating the file as documents are received, and reviewing the file for completion and review by the Director of Operations

Director of Operations – 5 minutes per application

Duties: review the file and supporting documentation for approval or directing the file for the review of the board.

Executive Director – 5 minutes per application

Duties: review renewal applications directed to the board for review and approval. It is estimated that one (1) out of the estimated thirteen (13) renewal applications estimated to receive per year will require board review.

Account Clerk II – 10 minutes per application

Duties: enter fee as received and prepare a revenue transmittal, post the fee and reconcile the fee on a daily, monthly, and yearly basis

Clerk IV – 3 minutes per application

Duties: enter the fee on the daily fee log and disseminate the fee to the Licensure Supervisor.

- The board anticipates thirteen (13) individuals will apply for registration during the first year. The board estimates this renewal process will cost the board approximately \$18.78 per application.
- The public entity cost for this proposed amendment is estimated to be \$244.11 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Department of Economic Development

Division: Division of Professional Registration/State Board of Registration for the Healing Arts

Chapter: 7 – Physician Assistants

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 150-7.310 Applicants for Temporary Licensure Renewal

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the annuals to the cost of compliance with the rule by the affected entities:
13	Individuals (application)	\$260.00
13	Individuals (postage)	\$4.29

**Estimated Annual Cost of
Compliance for the Life of the Rule** **\$264.29**

III. WORKSHEET

Biennial Registration Renewal Fee @ \$20.00

Postage @ \$.33

IV. ASSUMPTIONS

- The board anticipates thirteen (13) individuals will apply for renewal of registration during the first renewal period. The board estimates this registration process will cost each applicant approximately \$20.33.
- The private entity cost for this proposed amendment is estimated to be \$264.29 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 155—Office of Health Care Providers
Chapter 1—Certifying Entities**

PROPOSED RESCISSION

4 CSR 155-1.010 Certifying Entity—Respiratory Care Practitioners. This rule recognized the certifying entity for all respiratory care practitioners.

PURPOSE: The Division of Professional Registration is proposing to rescind this rule to implement Senate Bill 141 which created the Missouri Board of Occupational Therapy and Missouri Board of Respiratory Care and became effective August 28, 1997.

AUTHORITY: section 334.737, RSMo Supp. 1990. Original rule filed March 15, 1991, effective Aug. 30, 1991. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500.00 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500.00 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Occupational Therapy or Missouri Board of Respiratory Care, Attention: Executive Director, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 155—Office of Health Care Providers
Chapter 1—Certifying Entities**

PROPOSED RESCISSION

4 CSR 155-1.020 Certifying Entity—All Occupational Therapists. This rule recognized the certifying entity for all occupational therapists including certified occupational therapy assistants.

PURPOSE: The Division of Professional Registration is proposing to rescind this rule to implement Senate Bill 141 which created the Missouri Board of Occupational Therapy and Missouri Board of Respiratory Care and became effective August 28, 1997.

AUTHORITY: sections 334.737.2 and .4 and 334.740.3, RSMo Supp. 1990. Original rule filed March 15, 1991, effective Aug. 30, 1991. Rescinded: Filed Jan. 28, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$5000 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Occupational Therapy or Missouri Board of Respiratory Care, Attention: Executive Director, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 230—State Board of Podiatric Medicine
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 230-2.070 Fees. The board is proposing to amend subsections (1)(A) and (1)(G) and reletter other subsections accordingly.

PURPOSE: Beginning December 2000 the PMLexis examination will be a computerized exam, therefore, this rule amends the examination fee to reflect the increased cost of the PMLexis. The board also proposes an amendment to the reciprocity fee pursuant to section 330.030, RSMo which requires an applicant to pay a fee equivalent to the license and examination fees. This rule also implements House Bill 265 of the 90th General Assembly and establishes an inactive biennial renewal fee.

(1) The following fees are established by the State Board of Podiatric Medicine:

(A) Examination Fee	\$ [375.00] 650.00
[(B)] Reexamination Fee	\$375.00]
[(C)] (B) License Fee	\$100.00
[(D)] (C) Reciprocity License Fee	\$/475.00] 750.00
[(E)] (D) Duplicate License Fee	\$ 10.00
[(F)] (E) Biennial Renewal Fee	\$280.00
[(G)] (F) Inactive Biennial Renewal Fee	\$200.00

AUTHORITY: sections 330.140 [RSMo Supp. 1998] and 330.095, RSMo Supp. 1999. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Nov. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 28, 2000.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions less than \$500 in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities \$3,300 annually for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Podiatric Medicine, P.O. Box 423, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4- Department of Economic Development

Division: Division of Professional Registration/State Board of Podiatric Medicine

Chapter: Chapter 2 – General Rules

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 230-2.070

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimated Annual Cost of the Compliance:
10	Applicants for the PMLexis examination	\$2,750.00
2	Applicants for Reciprocity	\$550.00
		\$3,300.00

III. WORKSHEET

Examination Fee Increase @ \$275.00

Reciprocity Fee Increase @ \$275.00

IV. ASSUMPTIONS

1. The number of entities by class are based on actual figures from FY98 and projected figures in FY99.
2. The private entity cost for this proposed amendment is estimated to be \$3,300.00 annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of School Services
Chapter 345—Missouri School Improvement Program
PROPOSED AMENDMENT**

5 CSR 30-345.010 General Provisions. The department staff is recommending changes in sections (2), (5), (6), and (7).

PURPOSE: This amendment contains changes to the incorporated by reference material and updates the language for clarity, remove duplication of information and to include recent changes in legislation which impact on this rule.

(2) During each year, *[beginning with the 1990-91 academic year,]* the Department of Elementary and Secondary Education will select school districts which will be reviewed and classified in accordance with this rule, *[and]* **including** the standards, *[and procedures of the Missouri School Improvement Program]* **and in accordance with the procedures outlined in the annual Missouri School Improvement Program procedures manual.** *[After July 1, 1996, all school districts will be reviewed and classified under the standards and procedures of the Missouri School Improvement Program on a rotation basis once every five (5) years.]*

(5) A school district's classification designation based on the standards of the Missouri School Improvement Program will remain in effect until the State Board of Education approves another designation. The State Board of Education will consider changing a district's classification designation after its regularly scheduled review or upon *[the board's]* its determination that the district has—

(C) Altered significantly the scope or effectiveness of the programs, *[or]* services **or financial integrity** upon which the original classification designation was based.

(6) *[A school district designated unaccredited by the State Board of Education under the provisions of this rule before the 1995-96 school year, and which continues in unaccredited status throughout the 1995-96 school year, will be liable for tuition and transportation for resident students legally transferring to another district under the provisions of section 167.131, RSMo from the beginning of the 1996-97 school year through the end of the school year during which the State Board of Education awards the district a designation of provisionally accredited or higher.]* A school district designated unaccredited by the State Board of Education under the provisions of this rule *[during the 1995-96 school year or thereafter]* will be liable for tuition and transportation for resident students legally transferring to another district under the provisions of section 167.131, RSMo from the date of the action by the State Board of Education through the end of the school year during which the State Board of Education awards the district a designation of provisionally accredited or higher

(7) Any school district which on June 30, 1997, or any succeeding June 30, thereafter, has been unaccredited under the provisions of 5 CSR 30-345.010 for two (2) successive years will be subject to lapsing under the provisions of section 162.081, RSMo. **Any school district that is classified as unaccredited shall lapse on June 30 of the second full year of such unaccredited classification after the school year during which the unaccredited classification is initially assigned.**

AUTHORITY: section 161.092, RSMo 1994. This rule was previously filed as 5 CSR 50-345.010. Original rule filed July 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, Carl Sitze, Coordinator, Supervision, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 340—Supervision of Instruction
PROPOSED RESCISSION**

5 CSR 50-340.010 Classification and Accreditation of Public School Districts. This rule established requirements for classifying and accrediting the public school districts of the state.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 160.041, 161.092 and 167.131, RSMo 1986, 163.021, RSMo Supp. 1991 and 171.031, RSMo Supp. 1992. Original rule filed Aug. 27, 1973, effective Sept. 7, 1973. Amended: Filed May 13, 1976, effective Sept. 1, 1976. Amended: Filed Feb. 1, 1978, effective May 15, 1978. Amended: Filed May 25, 1978, effective Sept. 18, 1978. Amended: Filed Oct. 12, 1978, effective Jan. 15, 1979. Amended: Filed July 15, 1980, effective Oct. 13, 1980. Amended: Filed July 13, 1982, effective Oct. 12, 1982. Amended: Filed Aug. 12, 1983, effective Dec. 12, 1983. Amended: Filed Dec. 5, 1983, effective May 14, 1984. Amended: Filed Dec. 7, 1983, effective April 12, 1984. Amended: Filed Feb. 8, 1985, effective July 1, 1985. Emergency amendment filed Sept. 2, 1988, effective Sept. 13, 1988, expired Nov. 24, 1988. Amended: Filed Aug. 1, 1988, effective Oct. 27, 1988. Amended: Filed Oct. 3, 1989, effective Jan. 26, 1990. Amended: Filed Feb. 27, 1992, effective Sept. 6, 1992. Amended: Filed July 23, 1993, effective July 1, 1994. Rescinded: Filed Jan. 19, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Carl Sitze, Coordinator, Supervision, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Urban and Teacher Education
Chapter 800—Teacher Certification and Professional
Conduct and Investigations**

PROPOSED RULE

5 CSR 80-800.400 Procedure for Potential Candidates for Missouri Certificate of License to Teach with a Criminal

History to Petition the State Board of Education for Background Clearance

PURPOSE: This rule outlines the procedure for a potential candidate for Missouri certificate of license to teach with a criminal history to petition the State Board of Education for background clearance.

(1) Potential candidates for a Missouri certificate of license to teach who are currently enrolled in professional education courses in conjunction with state-approved teacher preparation programs may petition the State Board of Education for clearance of their background, enabling possible issuance of a Missouri certificate of license to teach upon completion of their teacher preparation programs and pursuant to the rules promulgated by the board.

(2) A potential candidate may apply to petition the State Board of Education for background clearance by completing and submitting the background check form. The form is provided by the State Board of Education and may be obtained by writing the Professional Conduct and Investigations Section of the Department of Elementary and Secondary Education at P.O. Box 480, Jefferson City, MO 65102, or the form may be downloaded from the Internet. The form contains the following:

(A) Applicant's full name, date of birth and Social Security number;

(B) Applicant's residential address;

(C) Details regarding teaching certificates or similar titles and/or other professional licenses or similar titles held, including but not limited to disciplinary actions, denials, restrictions, revocations, voluntary surrenders, suspensions, reprimands and/or investigations;

(D) Details regarding being found guilty, plea of guilty, receipt of a suspended imposition of sentence or entering a plea of *nolo contendere* for any violation of any laws of a state or the United States, other than a traffic violation; and

(E) Details regarding any pending complaints and/or investigations before any regulatory board or agency.

(3) A potential candidate wishing to petition the State Board of Education shall request and obtain documentation of current enrollment in a professional education course in conjunction with a state-approved teacher preparation program from the designated official of the institution.

(4) A potential candidate wishing to petition the State Board of Education for background clearance shall request that each state or United States territory regulatory entity in which a teaching certificate or similar title(s) and/or other professional license or similar title(s) is held or has ever been held submit verification of certification or licensure directly to the department. The verification shall include the certification or license issued, the number, status, issue and expiration dates, information regarding any disciplinary action, method of certification or licensure, the name and title of person verifying information with the date and seal.

(5) The background check form is not considered officially filed with the board until it has been determined by the board or department staff to be complete and the application is submitted on the forms provided by the board, signed and accompanied by two (2) full sets of fingerprints on cards provided by the board with the appropriate fees as set by the Missouri State Highway Patrol and/or the Federal Bureau of Investigations (FBI) and any other applicable documentation.

(A) For the purpose of this rule, the fingerprint cards shall be completed by any law enforcement agency and sent directly to the department from the law enforcement agency.

(B) The applicant is responsible for the payment of any fees required by the Missouri State Highway Patrol and/or FBI.

AUTHORITY: sections 161.092, 168.011 and 168.081, RSMo 1994 and 168.021 and 168.071, RSMo Supp. 1999. Original rule filed Jan. 19, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities, the potential candidates, \$792 in the Fiscal Year 2001, with that cost reoccurring annually thereafter over the life of the rule at approximately 36 potential candidates a year. The cost for the life of the rule for each individual potential candidate is \$22. A fiscal note containing the estimated cost of compliance has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Elementary and Secondary Education. Attn: Dr. Mike Lucas, Director of Teacher Education, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 5 - Department of Elementary and Secondary Education

Division: 80 - Urban and Teacher Education

Chapter: 800 - Teacher Certification and Professional Conduct and Investigations

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 80-800.400 - Procedure for Potential Candidates for Missouri Certificate of License to Teach with a Criminal History to Petition the State Board of Education for Background Clearance

II. SUMMARY OF FISCAL IMPACT

Estimate the number of potential candidates for a certificate of license to teach which may be affected by the adoption of the proposed rule.	Classification of types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
36 per year	Potential Applicants for Certificates of License to Teach who are enrolled in a Professional Education Course	\$792 per year for the life of the rule or \$22.00 per individual potential candidate for the life of the rule.

III. WORKSHEET

$\$22.00$ for fingerprinting fee = $\$22.00 \times 36$ potential applications = $\$792$ per year for the life of the rule or $\$22.00$ per potential candidate for the life of the rule.

IV. ASSUMPTIONS

There are 36 teacher preparation programs in the State of Missouri and we would anticipate each program having one student who would utilize this procedure.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 50—Workers' Compensation
Chapter 2—Procedure**

PROPOSED RESCISSION

8 CSR 50-2.030 Resolution of Medical Fee Disputes. This rule set forth the Division of Workers' Compensation administrative procedures available to employers, insurance carriers and health care providers to resolve disputes concerning charges, services or aids in accordance with section 287.140, RSMo.

PURPOSE: This rule is being rescinded due to the fact that the division has instituted a three year review of all rules. Certain procedural changes need to be made to better implement the medical fee dispute process. A new rule governing procedures is proposed.

AUTHORITY: section 287.650, RSMo 1994. Emergency rule filed Feb. 3, 1993, effective Feb. 19, 1993, expired June 18, 1993. Emergency rule filed June 29, 1993, effective July 9, 1993, expired Nov. 5, 1993. Emergency rule filed Nov. 16, 1993, effective Nov. 26, 1993, expired March 25, 1994. Emergency rule filed June 28, 1994, effective July 8, 1994, expired Nov. 4, 1994. Emergency rule filed Oct. 20, 1994, effective Nov. 5, 1994, expired March 4, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 24, 1996. Rescinded: Filed Jan. 21, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workers' Compensation, Attn: Jo Ann Karll, Director, P.O. Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 50—Workers' Compensation
Chapter 2—Procedure**

PROPOSED RULE

8 CSR 50-2.030 Resolution of Medical Fee Disputes

PURPOSE: This rule sets forth the Division of Workers' Compensation administrative procedures available to employers, insurance carriers and health care providers to resolve disputes concerning charges for services, in accordance with section 287.140, RSMo.

(1) Procedures pertaining to applications for payment of additional reimbursements.

(A) If an employer or insurer disputes the reasonableness of a medical fee or charge, the employer or insurer shall notify the health care provider in writing that the medical charge is being disputed and shall explain the basis for the dispute. The employer or insurer may tender partial payment and the health care provider may accept payment of the amount tendered without prejudice to the filing of an application for payment of additional reimbursements of medical fees. Upon receiving the written notice of the

dispute, the health care provider shall contact the insurer or employer to attempt to resolve the dispute. If the negotiation is unsuccessful and more than ninety (90) days have elapsed since the date of first billing, the health care provider may file an application for payment of additional reimbursement of medical fees with the division.

(B) The health care provider shall file with the division an original application for payment of additional reimbursements of medical fees. The application shall contain the following information:

1. The name, address and telephone number of the health care provider and, if different, the address where the service was rendered;

2. Name, address and telephone number of the employer and insurer against whom the application is being filed;

3. Name, address and Social Security number of the employee for whom health care services were rendered, together with the date of injury, for all disputes;

4. The amount in dispute;

5. Any information the division deems necessary to resolve the dispute.

(C) The health care provider shall serve through personal service or by certified mail, return receipt requested, a copy of the application on the person or corporation against whom the application has been filed. The health care provider shall file proof of service with the division.

(D) The application shall be filed on a form prescribed by the division and shall contain the required information. If the application does not include all the information required by this rule or proof of service is not filed with the division, the application will be rejected and will be returned for the additional information.

(E) If no report of injury or claim for compensation has been filed with the division for the injury for which the health care was provided the application may be returned for lack of jurisdiction.

(F) Upon receipt of the application, the division will assign a medical fee dispute number and confirm acceptance or rejection of the application to the health care provider.

(G) After the filing of an application for payment of additional reimbursement of medical fees, the parties shall again attempt to resolve their dispute without the assistance of the division.

(H) If the parties are unable to resolve their dispute, the health care provider may file a written application for an evidentiary hearing of the medical fee dispute. The health care provider shall immediately forward a copy of the application for an evidentiary hearing to all parties. The employer or insurer shall file an answer to the application for an evidentiary hearing within twenty (20) days from the date of the application, unless good cause is found by the division to extend the filing of the answer. If the employer or insurer fails to file a timely answer the facts contained in the application are deemed admitted as true. An evidentiary hearing shall be scheduled in front of an administrative law judge or legal advisor. An application for an evidentiary hearing cannot be dismissed without prejudice after an evidentiary hearing has been scheduled, without approval of the administrative law judge or legal advisor.

(I) Either party may engage in discovery to the extent authorized by Chapter 287, RSMo.

(J) The hearing shall be held at a place and time to be set by the division. The division shall notify all parties as to the time and place of the hearing. The hearing shall be simple and informal and all parties shall be entitled to be heard and to introduce evidence, however, the rules of evidence in civil proceedings shall not apply. The administrative law judge or legal advisor shall conduct the hearing and shall issue an award deciding the issues in dispute. The award should be completed within thirty (30) days of submission of the case.

(K) Either party may file an application for review with the Labor and Industrial Relations Commission within twenty (20) days from the date of the award of the administrative law judge or

legal advisor. This review shall be subject to review and appeal in the same manner as provided for other awards in Chapter 287, RSMo.

(L) The parties shall notify the division of the date and amount of any settlement of the application for payment of additional reimbursement of medical fees.

(M) The division, without a hearing, may reject an application for payment of additional reimbursements of medical fees without prejudice for failure to follow the procedures of this rule.

(N) Any settlement or award entered on the application for reimbursement of additional medical fees shall prohibit the health care provider from pursuing any additional fees for medical treatment from the employee.

(2) Procedures Pertaining to Applications for Direct Payments.

(A) If an employer or insurer fails to make payment for services provided to an employee by a health care provider due to an injury covered under the Missouri Workers' Compensation Law, and more than ninety (90) days have elapsed since the date of first billing, the health care provider may file an application for direct payment with the division.

(B) The notice of services provided and request for direct payment shall contain the following information:

1. The name, address and telephone number of the health care provider and, if different, the address where the service was rendered;

2. Name, address and telephone number of the employer and insurer against whom the application is being filed;

3. Name, address and Social Security number of the employee for whom health care services were rendered, together with the date of injury, for all disputes;

4. A brief description of the disputed services rendered; the date services were provided; the amount of money claimed to be owed; and the name and title of the person from the insurer or employer giving authorization (if known);

5. Any information the division deems necessary.

(C) The health care provider shall serve the employer or insurer through personal service or by certified mail, return receipt requested, a copy of the application on the person or corporation against whom the application has been filed. The health care provider shall file proof of service in accordance with section (4) of this rule with the division.

(D) The application shall be filed on a form prescribed by the division and shall contain the required information. If the application does not include all the information required by paragraph (B)1. of this rule or proof of service is not filed with the division, the application will be returned for the additional information.

(E) The division, without a hearing, may reject an application for direct payment without prejudice if the application does not pertain to a dispute relating to services for a compensable injury or for failure to follow the procedures of this rule.

(F) If there is no report of injury or claim for compensation filed with the division for the injury for which the health care was provided, the application will be returned for lack of jurisdiction of the division.

(G) Upon filing of the application, the division shall cause the application for direct payment to be made part of the underlying workers' compensation case and shall notify the health care provider of all proceedings relating to the underlying workers' compensation case. The division shall notify all parties to the case that the application has been made part of the underlying workers' compensation case. The health care provider shall be granted standing to appear as a party in the underlying workers' compensation case for the limited purpose of establishing that the health care provider is entitled to payment for services rendered. The health care provider shall have all rights accorded a party under Chapter 287, RSMo, as to this limited issue.

(H) The health care provider is barred from pursuing the employee for any costs incurred in pursuing the medical fee dispute and any reduction in payment of a medical charge.

(3) In any dispute between a health care provider and a managed care organization regarding medical care services or payment of such services, the decision of the managed care organization is subject to review by the division according to section 287.135.5, RSMo.

(4) Except as otherwise provided in this rule, each party filing any document with the division shall mail or deliver to the opposing party a true and accurate copy of the document filed with the division and shall certify or state on the document being filed that such mailing or delivery has occurred.

AUTHORITY: section 287.650, RSMo Supp. 1999. Emergency rule filed Feb. 3, 1993, effective Feb. 19, 1993 expired June 18, 1993. Emergency rule filed June 29, 1993, effective July 9, 1993, expired Nov. 5, 1993. Emergency rule filed Nov. 16, 1993, effective Nov. 26, 1993, expired March 25, 1994. Emergency rule filed June 28, 1994, effective July 8, 1994, expired Nov. 4, 1994. Emergency rule filed Oct. 20, 1994, effective Nov. 5, 1994, expired March 4, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 24, 1996. Rescinded and readopted: Filed Jan. 21, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Workers' Compensation, Attn: Jo Ann Karll, Director, P.O. Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 50—Workers' Compensation Chapter 4—Rehabilitation

PROPOSED RESCISSION

8 CSR 50-4.010 Rules Governing Rehabilitation. This rule was concerned with the physical rehabilitation of employees seriously injured. The creation of rehabilitation facilities, the acceptance of physical rehabilitation and a general statement of policy dealing with rehabilitation was included.

PURPOSE: This rule is being rescinded due to the fact the rule has not been reviewed or revised since 1975. Substantial changes in procedure have been adopted by the division requiring new rule language. A new rule is proposed.

AUTHORITY: section 287.141, RSMo 1986. Original rule filed Aug. 14, 1956, effective Aug. 25, 1956. Amended: Filed May 1, 1973, effective May 12, 1973. Amended: Filed Aug. 26, 1975, effective Sept. 5, 1975. Rescinded: Filed Jan. 21, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workers' Compensation, Attn: Jo Ann Karll, Director, P.O. Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 50—Workers' Compensation
Chapter 4—Rehabilitation**

PROPOSED RULE

8 CSR 50-4.010 Rules Governing Rehabilitation

PURPOSE: This rule is concerned with the physical rehabilitation of seriously injured employees and the certification of rehabilitation facilities. As provided by the statute, only those seriously injured workers receiving physical rehabilitation in facilities certified by the division are entitled to benefits from the Second Injury Fund under section 287.141.3, RSMo. This does not mean that workers cannot be rehabilitated in other facilities, but it does mean, if they are, that they cannot receive the Second Injury Fund benefits provided in section 287.141.3, RSMo.

(1) Section 287.141, RSMo, provides for physical rehabilitation of the seriously injured and for the division to administer the benefits provided.

(2) Words and phrases used in these rules are declared to mean:

(A) Director—Director of the Division of Workers' Compensation;

(B) Division—Division of Workers' Compensation;

(C) Employee—seriously injured worker who seeks, or for whom is sought physical rehabilitation;

(D) Employer—as defined by and used in the Workers' Compensation Law of Missouri;

(E) Facility or rehabilitation facility—institution providing physical rehabilitation;

(F) Insurer—as defined by and used in the Workers' Compensation Law of Missouri; and

(G) Physical rehabilitation—physical restoration of an injured worker as soon as possible and as nearly as possible to a condition of self-support and maintenance as an able-bodied worker. The term shall include medical, physical and occupational therapy provided on an inpatient or outpatient basis. The term shall exclude vocational rehabilitation as defined by section 287.143 through section 287.148, RSMo.

(3) Certification of Rehabilitation Facilities.

(A) The division shall employ such necessary technical and clerical personnel as may be required for the effective administration of the functions and duties provided in section 287.141, RSMo. The division may investigate a rehabilitation facility for the purpose of certification or review of certification. A report of the investigation shall be made available to the facility requesting certification. Each report shall include findings specifically as to the standards required by section 287.141.2, RSMo. The report shall be preserved as part of the division's record of certification. The information obtained by the division in the certification process shall be confidential.

(B) In order to qualify as a rehabilitation facility, the facility must meet the specifications as to function, personnel, equipment and direction set forth in section 287.141.2, RSMo. If the facility currently maintains either Commission on Accreditation of Rehabilitation Facilities (CARF) or Joint Commission on Accreditation of Hospital Organizations (JCAHO) certification, the facility will be certified for purposes of this rule. For facilities not certified by CARF or JCAHO the division will supply the standards for certification to the facility upon their application.

(C) Upon investigation, the division will grant or deny certification of the facility. Any facility denied certification may request a hearing before the director to review the denial. The director or the director's designee shall review the matter, including the discretion to take evidence if necessary, in the review.

(D) The division shall issue a certificate of qualification to a facility it finds meets the requirements of subsection (3)(B) of this rule. The division shall continuously maintain a complete roster by name and address of certified facilities in good standing.

(E) The original certification of a facility is not a guarantee of its continued certification. The division may revoke a facility's certification if a facility fails to continuously maintain the standards set forth in subsection (3)(B) of this rule.

(4) Eligibility of Second Injury Fund Benefits.

(A) The division shall determine whether the injury is a serious injury as set forth in subsection (4)(B) of this rule and whether the facility is a certified facility pursuant to subsection (3)(B) of this rule. The division may rely on the opinion of the treating physician in its determination of the injury as being serious. It is the seriousness of the injury rather than the type of treatment that determines the employee's eligibility of the benefit.

(B) The division considers the following injuries as serious: quadriplegia, paraplegia; amputations of the hand, arm, foot or leg; atrophy due to nerve injury or nonuse; back injuries not amenable alone to recognized medical and surgical procedures; crushing injuries; severe burn injuries; and other injuries in the division's discretion that may constitute a significant impairment.

(C) If the division determines payment of the benefit is owing, the division thereupon shall enter its approval, advise the parties of its action and requisition weekly payments out of the Second Injury Fund, to be paid the employee. The division itself may identify cases appropriate for payment of the Second Injury Fund benefit, in such cases the division shall requisition weekly payments and shall notify the parties to the case of its action.

(D) Where the need for physical rehabilitation is shown to the satisfaction of the division to require a period greater than twenty (20) weeks, the division shall issue a special order for such additional period. The division shall continue to requisition the amount provided by section 287.141.3, RSMo, out of the Second Injury Fund to the injured employee while he or she is being rehabilitated.

(E) In the gravest of injuries, the division may consider interruptions of physical rehabilitation for medical reasons in determining benefits.

(F) A facility shall inform the division in such a manner as determined by the division, the period during which an employee is actually being rehabilitated and submit a complete progress report when requested by the division.

(5) Any dispute arising under sections 287.141.2 and 287.141.5, RSMo, or a denial of payment of the Second Injury Fund benefit under section 287.141.3, RSMo, shall be governed by the provisions of this section.

(A) If the parties disagree as to the provisions or acceptance of physical rehabilitation or the division has denied payment of the Second Injury Fund benefit provided in section 287.141.3, RSMo, the employee or the employer or the insurer may file a request for a hearing with the division.

(B) Hearing on a request filed under subsection (A) shall be held at a place and time to be set by the division and shall be informal in all respects. The rules of evidence in civil proceedings shall not apply. Such hearing may be held by the director or by the director's designee.

(C) Resetting the hearing date for evidence shall only be granted under unusual circumstances.

(D) Requests for continuances must be in writing and will not be granted except under extraordinary circumstances.

(E) The hearing will be recorded. A transcription of the hearing will be made upon request and shall be available to the parties in like manner and for the same fees as provided in 8 CSR 50-2.020.

(F) Within ten (10) days after the hearing and after considering all the evidence, the division shall issue an order either granting or denying the request for physical rehabilitation or the Second Injury Fund benefit. A copy of the order shall be sent to all parties. When the order grants physical rehabilitation or the Second Injury Fund benefit, it shall include an order to requisition payment of the amount provided by section 287.141.3, RSMo, from the Second Injury Fund to the injured employee during such time as the employee is receiving physical rehabilitation.

(G) All parties must comply with an order of the division within thirty (30) days from the date of said order, unless the order itself specifically provides otherwise.

(H) A request for a review of an order of the division issued pursuant to section 287.141.5, RSMo and section 287.141.3, RSMo is governed by the provisions of section 287.480, RSMo and section 287.495, RSMo.

AUTHORITY: section 287.141, RSMo 1994. Original rule filed Aug. 14, 1956, effective Aug. 25, 1956. Amended: Filed May 1, 1973, effective May 12, 1973. Amended: Filed Aug. 26, 1975, effective Sept. 5, 1975. Rescinded and readopted: Filed Jan. 21, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Workers' Compensation, Attn: Jo Ann Karll, Director, P.O. Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 5—Laboratory and Analytical Requirements**

PROPOSED AMENDMENT

10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses. The commission is amending sections (1) and (2).

PURPOSE: This amendment updates the accepted methods for analysis of disinfectants and disinfection by-products and rearranges some existing requirements.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the

adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Inorganic and Radiological Contaminants. Unless substitute methods are approved by the department, analysis shall be conducted in accordance with the methods listed in the following table. All analytical methods listed in this are incorporated by reference. Criteria for analyzing arsenic, barium, beryllium, cadmium, calcium, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical test procedures are contained in "Technical Notes on Drinking Water Methods," EPA-600/R-94-173, October 1994. This document also contains approved analytical test methods which remain available for compliance monitoring until July 1, 1996. These methods will not be available for use after July 1, 1996. This document is available from the National Technical Information Service, NTIS PB95-104766, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is 800-553-6847.

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
Aluminum	Inductively Coupled Plasma-Emission Spectroscopy	200.7	22
		3120 B	17
	Inductively Coupled Plasma-Mass Spectrometry Atomic Absorption-Platform Technique	200.8	22
		200.9	22
		3113 B	17
		3111 D	17
Antimony	Atomic Absorption-Gaseous Hydride	D3697-92	19
	Atomic Absorption-Graphite Furnace	3113 B	17
	Inductively Coupled Plasma—Mass Spectrometry	200.8	22
	Atomic Absorption—Platform Technique	200.9	22
Arsenic	Atomic Absorption—Graphite Furnace	D-2972-93C	19
		3113 B	17
	Atomic Absorption-Gaseous Hydride	D2972-93B	19
		3114B	17
	Atomic Absorption—Platform	200.9	22
	Inductively Coupled Plasma-Emission Spectroscopy	200.7	22
		3120 B	17
	Inductively Coupled Plasma-Mass spectrometry	200.8	22
Asbestos	Transmission Electron Microscopy	100.1	7
Barium	Inductively Coupled Plasma-Mass Spectrometry Atomic Absorption-Graphite Furnace Atomic Absorption-Direct Aspiration Inductively Coupled Plasma-Emission Spectroscopy	100.2	27
		200.8	22
		3113 B	17
		3111 D	17
		200.7	22
Beryllium	Atomic Absorption-Graphite Furnace	3120 B	17
		200.9	22
	Atomic Absorption-Platform	200.9	22
		3120 B	17
	Inductively Coupled Plasma-Emission Spectroscopy	200.7	22
		200.8	22
Bromate	Ion Chromatography	300.1	31
Bromide	Ion Chromatography	300.0	25
		300.1	31
Cadmium	Atomic Absorption-Graphite Furnace Atomic Absorption-Platform Inductively Coupled Plasma-Emission Spectroscopy Inductively Coupled Plasma-Mass Spectrometry	3113 B	17
		200.9	22
		200.7	22
		200.8	22
Chloride		300.0	25
		D4327-91	19
		4500-Cl-D	17
Chlorite	Ion Chromatography	300.0	25
		300.1	31
Chromium	Atomic Absorption-Furnace Technique Atomic Absorption-Platform Inductively Coupled Plasma-Emission Spectroscopy Inductively Coupled Plasma-Mass Spectrometry	3113 B	17
		200.9	22
		200.7	22
		3120 B	17
		200.8	22
Color		2120 B	17

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
Copper	Atomic Absorption-Furnace Technique	D1688-90C	19
		3113 B	17
	Atomic Absorption-Platform	200.9	22
		D1688-90A	19
	Atomic Absorption-Direct Aspiration	3111 B	17
		200.7	22
	Inductively-Coupled Plasma	3120 B	17
Cyanide	Manual distillation followed by- 1. Amenable Spectrophotometric	200.8	22
		4500-CN-C	17
	2. Spectrophotometric—Manual	D2036-91B	19
		4500-CN-G	17
		D2036-91A	19
		4500-CN-E	17
	3. Spectrophotometric—Manual—Semiautomated	1-3300-85	24
		335.4	25
	4. Selective Electrode	4500-CN-F	17
Dissolved Organic Carbon (DOC)	High-Temperature Combustion	5310 B	29
	Persulfate-Ultraviolet or Heated-Persulfate Oxidation	5310 C	29
	Wet-Oxidation	5310 D	29
Fluoride	Colorimetric SPADNS, with distillation	4500-F-B&D	17
		Ion Chromatography	300.0
			25
		D4327-91	19
	Manual Electrode	4110 B	17
		D1179-93B	19
		4500-F-C	17
	Automated Alizarin Fluoride Blue, with distillation (complexone)	4500-F-E	17
		129-71W	9
	Automated Ion Selective Electrode	380-75WE	10
Foaming Agents		5540C	17
Iron		200.7	22
		200.9	22
		3120 B	17
		3111 B	17
		3113 B	17
Lead	Atomic Absorption-Furnace Technique	D3559-90D	19
		3113 B	17
	Inductively Coupled Plasma-Mass Spectrometry	200.8	22
		Atomic Absorption-Platform Furnace	200.9
Manganese		200.7	22
		200.8	22
		200.9	22
		3120 B	17
		3111 B	17
		3113 B	17
Mercury	Manual cold vapor technique	245.1	22
		D3223-91	19
		3112 B	17
	Automated cold vapor technique	245.2	1
	Inductively Coupled Plasma—Mass Spectrometry	200.8	22

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
Nickel	Atomic Absorption-Direct Aspiration	3111 B	17
	Atomic Absorption-Platform Technique	200.9	22
	Inductively Coupled Plasma-Emission Spectroscopy	200.7	22
		3120 B	17
	Inductively Coupled Plasma-Mass Spectrometry	200.8	22
	Atomic Absorption-Graphite Furnace	3113 B	17
Nitrate	Manual Cadmium Reduction	D3867-90B	19
		4500 NO ₃ ⁻ E	17
	Automated Cadmium Reduction	353.2	25
		D3867-90A	19
		4500-NO ₃ ⁻ F	17
	Ion Selective Electrode	4500-NO ₃ ⁻ D	17
		601	26
	Ion Chromatography	300.0	25
		B-1011	8
		4110 B	17
Nitrite		D4327-91	19
	Spectrophotometric	4500-NO ₃ ⁻ B	17
	Automated Cadmium Reduction	353.2	25
		D3867-90A	19
		4500 NO ₃ ⁻ F	17
	Manual Cadmium Reduction	D3867-90B	19
		4500-NO ₃ ⁻ E	17
	Ion Chromatography	300.0	25
		B-1011	8
		D4327-91	19
Operational Monitoring— Disinfection Byproducts— Chlorite		4110 B	17
	Amperometric Titration	4500-ClO ₂ E	28
Operational Monitoring— General			17
Operational Monitoring— Lead and Copper Regulation	pH Electrometric	150.1	1
		150.2	1
		D1293-84	19
		4500-H ⁺ -B	17
	Conductivity	D1125-91A	19
		2510 B	17
		D511-93A	19
	Calcium (EDTA Titrimetric)	3500-Ca-D	17
		200.7	22
		3120 B	17
	(Inductively Coupled Plasma)	D511-93B	19
		3111 B	17
		D1067-92B	19
	(Atomic Absorption—Direct Aspiration)	2320 B	17
		I-1030-85	24
	Alkalinity (Titrimetric)		
	(Electrometric Titration)		
	Orthophosphate (unfiltered, no digestion or hydrolysis)		
	(Colorimetric, automated ascorbic acid)	365.1	25
		4500-P-F	17

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
Operational Monitoring— Lead and Copper Regulation (cont.)	(Colorimetric, ascorbic acid single reagent)	D515-88A 4500-P-E	19 17
	(Colorimetric, phosphomolybdate, automated-segmented flow, automated discrete)	I-1601-85 I-2601-90 I-2598-85	24 24 24
	(Ion Chromatography)	300.0 D4327-91 4110	25 19 17
	Silica (Colorimetric, molybdate blue, automated-segmented flow)	I-1700-85 I-2700-85	24 24
	(Colorimetric)	D859-88	19
	(Molybdosilicate)	4500-Si-D	17
	(Heteropoly blue)	4500-Si-E	17
	(Automated method for molybdate-reactive silica)	4500-Si-F	17
	(Inductively Coupled Plasma)	200.7 3120 B	22 17
Operational Monitoring— pH	pH Value	150.1 150.2 D1293-84 4500-H ⁺ B	1 1 19 17
Operational Monitoring— Residual Disinfectant Monitoring—Chlorine Dioxide	Amperometric [Titration] Method II	[4500-ClO ₂ C 4500-ClO ₂ E 4500-ClO ₂ D	17] [17]/28 [17]/28
Combined Chlorine	DPD Method Amperometric Titration	4500-Cl D D 1253-86	28 30
	DPD Ferrous Titrimetric DPD Colorimetric	4500-Cl F 4500-Cl G	28 28
<i>[Operational Monitoring— Residual Disinfectant Monitoring—] Free Chlorine</i>	Amperometric Titration	4500-Cl D D 1253-86	[17]/28 30
	DPD Ferrous Titrimetric DPD Colorimetric Syringaldazine (FACTS)	4500-Cl F 4500-Cl G 4500-Cl H	[17]/28 [17]/28 [17]/28
<i>[Combined Chlorine</i>	Amperometric Titration	4500-Cl D D 1253-86	17] 30
	<i>[Amperometric Titration—low level measurement DPD Ferrous Titrimetric DPD Colorimetric Iodometric Electrode</i>	4500-Cl E 4500-Cl F 4500-Cl G 4500-Cl I	17 17 17 17]
Ozone	Indigo	4500-O B	17
Total Chlorine	Amperometric Titration	4500-Cl D D 1253-86	28 30
	Low Level Amperometric Titration DPD Ferrous Titrimetric DPD Colorimetric Iodometric Electrode	4500-Cl E 4500-Cl F 4500-Cl G 4500-Cl I	28 28 28 28

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
<i>Operational Monitoring— Lead and Copper Regulation</i>	<i>pH Electrometric</i>	150.1	1
		150.2	1
		D1293-84	19
		4500-H ⁺ B	17
	<i>Conductivity</i>	D1125-91A	19
		2510 B	17
	<i>Calcium (EDTA Titrimetric)</i>	D511-93A	19
		3500-Ca D	17
	<i>(Inductively Coupled Plasma)</i>	200.7	22
		3120 B	17
	<i>(Atomic Absorption—Direct Aspiration)</i>	D511-93B	19
		3111 B	17
	<i>Alkalinity (Titrimetric)</i>	D1067-92B	19
		2320 B	17
	<i>(Electrometric Titration)</i>	I-1030-85	24
	<i>Orthophosphate (unfiltered, no digestion or hydrolysis)</i>		
	<i>(Colorimetric, automated ascorbic acid)</i>	365.1	25
		4500-P F	17
	<i>(Colorimetric, ascorbic acid single reagent)</i>	D515-88A	19
		4500-P E	17
	<i>(Colorimetric, phosphomolybdate, automated-segmented flow, automated discrete)</i>	I-1601-85	24
		I-2601-90	24
	<i>(Ion Chromatography)</i>	I-2598-85	24
		300.0	25
		D4327-91	19
		4110	17
	<i>Silica (Colorimetric, molybdate blue, automated-segmented flow)</i>	I-1700-85	24
		I-2700-85	24
	<i>(Colorimetric)</i>	D859-88	19
	<i>(Molybdosilicate)</i>	4500-Si D	17
	<i>(Heteropoly blue)</i>	4500-Si E	17
	<i>(Automated method for molybdate-reactine silica)</i>	4500-Si F	17
	<i>(Inductively Coupled Plasma)</i>	200.7	22
		3120B	17
<i>Operational Monitoring— Residual Disinfectant Monitoring— Ozone</i>	<i>Indigo</i>		
		4500-O B	17]
<i>Operational Monitoring— Temperature</i>	<i>Thermometric</i>	2550 B	17
Radionuclides			11
			12
			13
	Examination of Water & Wastewater for Radioactivity	700	3
	Gamma Spectrometry in Water	D2459	2
	Microquantities of Uranium in Water by Fluorometry	D2907	2
Secondary Contaminants			3
Selenium	Atomic Absorption-Hydride Generation	D3859-93A	19
		3114 B	17
	Atomic Absorption-Graphite Furnace	D3859-93	19
		3113 B	17
	Atomic Absorption-Platform	200.9	22
	Inductively Coupled Plasma-Mass Spectrometry	200.8	22

Contaminant	Methodology (if appropriate)	Method (if appropriate)	Reference
Silver	Atomic Absorption-Graphite Furnace	I-3720-85	24
	Inductively Coupled Plasma-Emission Spectroscopy	200.7	22
	Inductively Coupled Plasma-Mass Spectrometry	200.8	22
	Atomic Absorption-Platform Technique	200.9	22
		3120 B	17
		3111 B	17
		3113 B	17
Sulfate	Colorimetric-Methylthymol blue	375.2	25
	Gravimetric	4500-SO ₄ -C, D	17
	Turbidimetric	4500-SO ₄ -F	17
	Ion Chromatography	300.0	25
		4110	17
		D4327-91	19
Thallium	Atomic Absorption-Platform Technique	200.9	22
	Inductively Coupled Plasma-Mass Spectrometry	200.8	22
Total Dissolved Solids		2540 C	17
Total Organic Carbon (TOC)	High-Temperature Combustion	5310 B	29
	Persulfate-Ultraviolet or Heated-Persulfate Oxidation	5310 C	29
	Wet-Oxidation	5310 D	29
Turbidity	Nephelometric	2130 B	17
		180.1	25
Sodium	Great Lakes Instruments	Method 2	18
	Inductively Coupled Plasma	200.7	22
	Atomic Absorption—Direct Aspiration	3111 B	17
Ultraviolet Absorption at 254 nm (UV254)	Ultraviolet Absorption	5910 B	28
Zinc		200.8	22
		3111 B	17

Footnotes

- 1) If approved by the department, systems may also measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide by using DPD colorimetric test kits.
- 2) A party approved by the department must measure residual disinfectant concentration.
- 3) Amperometric titration may be used for routine daily monitoring of chlorite at the entrance to the distribution system. Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system.
- 4) TOC samples may not be filtered prior to analysis. TOC samples must either be analyzed or must be acidified to achieve pH less than 2.0 by minimal addition of phosphoric or sulfuric acid as soon as practical after sampling, not to exceed twenty-four (24) hours. Acidified TOC samples must be analyzed within twenty-eight (28) days.
- 5) UV absorption must be measured at 253.7 nm (may be rounded off to 254 nm). Prior to analysis, UV₂₅₄ samples must be filtered through a 0.45 µm pore-diameter filter. The pH of UV₂₅₄ samples may not be adjusted. Samples must be analyzed as soon as practical after sampling, not to exceed forty-eight (48) hours.
- 6) Specific Ultraviolet Absorbance (SUVA). SUVA is equal to the UV absorption at 254 nm (UV₂₅₄) (measured in m-1) divided by the dissolved organic carbon (DOC) concentration (measured as mg/l). In order to determine SUVA, it is necessary to separately measure UV₂₅₄ and DOC. When determining SUVA, systems must use the methods stipulated in subparagraph (7)(D)4.A. of this rule to measure DOC and the method stipulated in subparagraph (7)(D)4.B. of this rule to measure UV₂₅₄. SUVA must be determined on water prior to the addition of disinfectants/oxidants by the system. DOC and UV₂₅₄ samples used to determine a SUVA value must be taken at the same time and at the same location.
- 7) Prior to analysis, DOC samples must be filtered through a 0.45 µm pore-diameter filter. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet the following criteria: DOC < 0.5 mg/L. DOC samples must be filtered through the 0.45 µm pore-diameter filter prior to acidification. DOC samples must either be analyzed or must be acidified to achieve pH less than 2.0 by minimal addition of phosphoric or sulfuric acid as soon as practical after sampling, not to exceed forty-eight (48) hours. Acidified DOC samples must be analyzed within twenty-eight (28) days.

(A) References for analytical methods **incorporated by reference** in 10 CSR 60-5.010(1)/-/.

1. "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268 (EPA-600/4-79-020), March, 1983. Available from National Technical Information Service, PB84-128677. Methods 150.1, 150.2 and 246.2 are also available from U.S. EPA, EMSL, Cincinnati, OH 45268.
2. *Annual Book of ASTM Standards*, Vols. 11.01 and 11.02, 1991, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.
3. *Standard Methods for the Examination of Water and Wastewater*, 16th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1985.
4. "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," *Techniques of Water-Resources Investigations of the U.S. Geological Survey Books*, Book 5, Chapter A1, Third Edition, 1989. Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
5. "Orion Guide to Water and Wastewater Analysis," Form WeWWG/5880, p. 5, 1985. Orion Research, Inc., Cambridge, MA 02139.
6. 200.7A "Inductively Coupled Plasma Atomic Emission Analysis of Drinking Water," Appendix to Method 200.7, March 1987, U.S. EPA, Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268.
7. "Analytical Method for Determination of Asbestos Fibers in Water," Method 100.1, EPA-600/4-83-043, September 1983. Available from National Technical Information Service, PB83-260471.
8. "Waters Test Method for the Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," Method B-1011, Millipore Corporation, Waters Chromatography Division, 34 Maple Street, Milford, MA 01757.
9. "Fluoride in Water and Wastewater," Industrial Method 129-71W, Technicon Industrial Systems, Tarrytown, NY 10591, December 1972.
10. "Fluoride in Water and Wastewater," Industrial Method No. 380-75WE, Technicon Industrial Systems, Tarrytown, NY 10591, February 1976.
11. "Radiochemical Methodology for Drinking Water," Environmental Monitoring Support Laboratory, EPA-600/4-75-008, U.S. EPA, Cincinnati, OH 45268.
12. "Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," H.L. Krieger and S. Gold, EPA-R4-730014. U.S. EPA, Cincinnati, OH, May 1973.
13. *HASL Procedure Manual*, edited by John H. Harley, HASL 300, ERDA Health and Safety Laboratory, New York, NY, 1973.
14. "Determination of and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Method 200.8, version 4.3, August 1990, EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268. Available from ORD Publication, CERL, EPA, Cincinnati, OH 45268.
15. "Determination of Metals and Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Method 200.9, version 1.1, August 1990, EPA, Environmental Monitoring and Systems Laboratory, Cincinnati, OH 45268.
16. "Determination of Ozone in Water by the Indigo Method; A Submitted Standard Method," *Ozone Science and Engineering*, Volume 4, pages 169-176, Pergamon Press Ltd., 1982.
17. *Standard Methods for the Examination of Water and Wastewater*, 18th edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1992.
18. "Turbidity," GLI Method 2, November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55 Street, Milwaukee, WI 53223.
19. *Annual Book of ASTM Standards*, Vols. 11.01 and 11.02, 1994, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.
20. "Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry" Method 200.8, August 1990, Revision 3.2 EPA EMSL. Available from U.S. EPA, EMSL, Cincinnati, OH 45268.
21. "Determination of Inorganic Ions in Water by Ion Chromatography" Method 300.8, December 1989, U.S. EPA EMSL, Available from U.S. EPA, EMSL, Cincinnati, OH 45268.
22. "Methods for the Determination of Metals in Environmental Samples—Supplement I, EPA-600/R-94-111, May 1994." Available from National Technical Information Service (NTIS) NTIS PB94-184942, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is (800) 553-6847.
23. "Method 300. Determination of Inorganic Anions in Water by Ion Chromatography." Inorganic Chemistry Branch, Environmental Monitoring Systems Laboratory, August 1991.
24. Available from the Books and Open-File Reports Section, United States Geological Survey, Federal Center, Box 25425, Denver, CO 80225-0425.
25. "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. Available from National Technical Information Service, PB94-121811.
26. The procedure shall be done in accordance with the Technical Bulletin 601, "Standard Method of Test for Nitrate in Drinking Water," July 1994, PN 221890-001, Analytical Technology, Inc. Available from ATI, Orion, 529 Main Street, Boston, MA 02129.
27. "Determination of Asbestos Structure over 10- μ m in Length in Drinking Water," Method 100.2, EPA-600/R-94-134, June 1994. Available from NTIS, PB94-201902.
28. *Standard Methods for the Examination of Water and Wastewater*, 19th edition, American Public Health Association, 1995. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.
29. *Supplement to the 19th Edition of Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 1996. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.
30. *Annual Book of ASTM Standards*, Volume 11.01, American Society for Testing and Materials, 1996 edition. Copies may be obtained from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.
31. EPA Method 300.1 is titled "USEPA Method 300.1, Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0," U.S. EPA, 1997, EPA/600/R-98/118 (available through NTIS, PB98-169196); also available from: Chemical Exposure Research Branch, Microbiological & Chemical Exposure Assessment Research Division, National Exposure Research Laboratory, U.S. Environmental Protection Agency, Cincinnati, OH 45268, fax number: 513-569-7757, phone number: 513-569-7586.

(2) Organic Contaminants. Unless substitute methods are approved, the following table includes acceptable analysis procedures **incorporated by reference** for organic contaminants:

Contaminant	Method		
2,3,7,8-TCDD (Dioxin)	1613	Ethylene dibromide (EDB)	504.1
2,4-D	515.1		551
	515.2	Glyphosate	547
	555		6651
2,4,5-TP (Silvex)	515.1	Haloacetic Acids (HAA5)	552.1
/515.1515.2,/	515.2		552.2
	555		6251 B
3-Hydrodroxycarbofuran	531.1	Heptachlor	505
	6610		508
Alachlor	505		525.2
	507		508.1
	525.2	Heptachlor epoxide	505
	508.1		508
Aldicarb	531.1		525.2
	6610		508.1
Aldicarb sulfoxide	531.1	Hexachlorobenzene	505
	6610		508
Aldicarb sulfone	531.1		525.2
	6610		508.1
Aldrin	505		505
	508	Lindane	508
	525.2		525.2
	508.1		508.1
Atrazine	505	Methomyl	531.1
	507		6610
	525.2	Methoxychlor	505
	508.1		525.2
Benzo(a)pyrene	525.2		508.1
	550	Metolachlor	507
	550.1		508.1
Butachlor	507		525.2
	525.2	Metribuzin	507
Carbaryl	531.1		508.1
	6610		525.2
Carbofuran	531.1	Oxamyl (vydate)	531.1
	6610		6610
Chlordane	505	Pentachlorophenol	515.1
	508		515.2
	525.2		525.2
	508.1		555
Dalapon	515.1	Picloram	515.1
	552.1		515.2
Di(2-ethylhexyl)adipate	506		555
	525.2	Polychlorinated biphenyls	505 (as Aroclors)
Di(2-ethylhexyl)phthalate	506		508 (as Aroclors)
	525.2		508A (as deca-
Dibromochloropropane (DBCP)	504.1		chlorobiphenyl)
	551	Propachlor	508
Dicamba	515.1		508.1
	515.2		525.2
	555	Simazine	505
Dieldrin	505		507
	508		508.1
	508.1		525.2
	525.2	Toxaphene	505
Dinoseb	515.1		508
	515.2		525.2
	555	Total Trihalomethanes (TTHM)	502.2
Diquat	549.1		524.2
Endothall	548.1		/551/
Endrin	505		551.1
	508	Volatile Organic Chemicals	
	525.2	(regulated and unregulated)	502.2
	508.1		524.2

Footnotes

1) A nitrogen-phosphorous detector should be substituted for the electron capture detector in Method 505 (or another approved method should be used) to determine alachlor, atrazine, and simazine, if lower detection limits are required.

2) PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Each system which monitors for PCBs shall analyze each sample using either Method 505 or Method 508.

3) Analyses of total trihalomethanes shall be conducted in accordance with these methods and "Technical Notes on Drinking Water Methods," EPA-600/R94-173, October 1994, which is available at NTIS, PB95-104766.

4) In addition to Methods 502.2 and 524.2, analysis for bromodichloromethane, bromoform, [*] chlorodibromomethane, chloroform, carbon tetrachloride, tetrachloroethylene, 1,1,1-trichloroethane, and trichloroethylene may also be conducted by EPA Method 551. Analysis for 1,2,3-trichloropropane may be conducted by Methods 502.1, 524.2 and 504.1.

5) For method 502.2, if TTHMs are the only analytes being measured, then a photoionization detector is not required.

References for analytical methods **incorporated by reference** in 10 CSR 60-5.010(2): Methods /502.2,/ 505, 507, 508, 508A, 515.1 and 531.1 are in "Methods for the Determination of Organic Compounds in Drinking Water," EPA-600/4-88-039, December 1988, revised July 1991. Methods 506, 547, 550, 550.1 and 551 are in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I," EPA-600-4-90-020, July 1990. Methods 515.2, /524.2,/ 548.1, 549.1, 552.1 and 555 are in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," EPA-600/R-92-129, August 1992. **EPA Methods 502.2, 524.2, 551.1, and 552.2 are in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement III," U.S. EPA, August 1995, EPA/600/R-95/131.** Method 1613 is titled "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS," EPA-821-B-94-005 October 1994. These documents are available from National Technical Information Service (NTIS) NTIS PB91-231480, PB91-146027, PB92-207703, **PB95-261616**, and PB95-104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is (800) 553-6847. Method 6651 shall be followed in accordance with the 18th edition of "Standard Methods for the Examination of Water and Wastewater," 1992. Available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. Method 6610 shall be followed in accordance with the "Supplement to the 18th Edition of Standard Methods for the Examination of Water and Wastewater," 1994. Available from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005. **Method 6251 B shall be followed in accordance with the 19th edition of "Standard Methods for the Examination of Water and Wastewater," 1995. Available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.** EPA Methods 504.1, 508.1, and 525.2 are available from U.S. EPA EMSL, Cincinnati, OH 45268. The phone number is (513) 569-7586. Other analytical test procedures are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994, NTIS PB95-104766.

- 502.1 Volatile halogenated organic chemicals in water by purge and trap gas chromatography
- 502.2 Volatile organic compounds in water by purge and trap capillary column gas chromatography with photoionization and electrolytic conductivity detectors in series
- 503.1 Volatile aromatic and unsaturated organic compounds in water by purge and trap gas chromatography

- 504.1 1,2-Dibromoethane (EDB) and 1,2-Dibromo-3-chloropropane (DBCP), and 1,2,3-Trichloropropane (123TCP) in Water by Microextraction and Gas Chromatography
- 505 Analysis of organohalide pesticides and commercial polychlorinated biphenyl products (Aroclors) in water by microextraction and gas chromatography
- 506 Determination of phthalate and adipate esters in drinking water by liquid-liquid extraction or liquid-solid extraction and gas chromatography with photoionization detection
- 507 Determination of nitrogen- and phosphorus-containing pesticides in groundwater by gas chromatography with a nitrogen-phosphorus detector
- 508 Determination of chlorinated pesticides in water by gas chromatography with an electron capture detector
- 508.1 Determination of chlorinated pesticides, herbicides, and organohalides by liquid-solid extraction and electron capture gas chromatography
- 508A Screening for polychlorinated biphenyls by perchlorination and gas chromatography (for quantification if detected with method 505 or 508)
- 515.1 Determination of chlorinated acids in water by gas chromatography with an electron capture detector, revision 5.0, May 1991
- 524.1 Measurement of purgeable organic compounds in water by purged column gas chromatography/mass spectrophotometry
- 524.2 Volatile organic chemicals in water by purge and trap capillary column gas chromatography/mass spectrophotometry
- 525.2 Determination of organic compounds in drinking water by liquid-solid extraction in capillary column gas chromatography/mass spectrophotometry
- 531.1 Measurement of N-methyl carbamoyloximes and N-methyl carbamates in water by direct aqueous injection HPLC with post-column derivatization
- 547 Analysis of glyphosate in drinking water by direct-aqueous-injection HPLC, with post-column derivatization
- 548 Determination of endothall in aqueous samples
- 549.1 Determination of diquat and paraquat in drinking water by liquid-solid extraction and by high performance liquid chromatography with ultraviolet detection
- 550 Determination of polycyclic aromatic hydrocarbons in drinking water by liquid-liquid extraction and HPLC with coupled ultraviolet and fluorescence detection
- 550.1 Determination of polycyclic aromatic hydrocarbons in drinking water by liquid-solid extraction and HPLC with coupled ultraviolet and fluorescence detection
- /552 *Determination of polycyclic aromatic hydrocarbons in drinking water by liquid-solid extraction and HPLC with coupled ultraviolet and fluorescence detection*
- 551 Determination of chlorination disinfection byproducts and chlorinated solvents in drinking water by liquid-liquid extraction and gas chromatography with electron/[-] capture detection
- 551.1 **Determination of chlorination disinfection byproducts, chlorinated solvents, and halogenated pesticides/herbicides in drinking water by liquid-liquid extraction and gas chromatography with electron capture detection, Revision 1.0**
- 552.1 **Determination of haloacetic acids and dalapon in drinking water by ion exchange liquid-liquid extraction and gas chromatography with an electron capture detector, Revision 1.0**

- 552.2** **Determination of haloacetic acids and dalapon in drinking water by liquid-liquid extraction, derivatization and gas chromatography with electron capture detection, Revision 1.0**
- 555 Determination of chlorinated acids in water by high performance liquid chromatography with a photodiode array ultraviolet detector
- 1613 "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope Dilution." This method is available from U.S. EPA-OST, Sample Control Center, P.O. Box 1407, Alexandria, VA 22313.
- 6610 Carbamate pesticides
- 6251 B** **Micro Liquid-Liquid Extraction Gas Chromatographic Method**
- 6651 Glyphosate herbicide

AUTHORITY: section 640.100, RSMo [1994] Supp. 1999. Original rule filed May 4, 1979, effective Sept. 14, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 15, 1999.

PUBLIC COST: This proposed amendment is anticipated to cost four public water system laboratories approximately \$216,000 in the aggregate.

PRIVATE COST: This proposed amendment is anticipated to cost eight private laboratories approximately \$432,000 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *A public hearing will be held April 6, 2000 at the DNR Conference Center, 1735 Elm Street, Jefferson City, Missouri. The informational meeting and public hearing on the proposed rulemaking will begin at 10:00 a.m. Requests to comment at the public hearing should be sent in advance to the Public Drinking Water Program at the address provided at the end of this notice.*

Anyone may submit comments in support of or in opposition to this proposed amendment. In preparing comments on the proposed amendment, please include the regulatory citation and the Missouri Register page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language for consideration by the commission.

Written comments must be postmarked or received by April 13, 2000. Comments may be mailed, faxed or E-mailed to: Jerry L. Lane, P.E., Director, Public Drinking Water Program, P.O. Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110. The E-mail address is nrmccal@mail.dnr.state.mo.us.

**FISCAL NOTE
PUBLIC ENTITY COST****I. RULE NUMBER**

Title: 10
Division: 60
Chapter: 5
Type of Rulemaking: Proposed Amendment
Rule Number and Name: 10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
4 Public Water System laboratories	Total Aggregate Cost = \$216,000

III. WORKSHEET

The estimated costs associated with new and updated analytical methods for disinfection by-products and associated operational tests were calculated as follows:

MDNR Costs:

No expected change in costs to the DNR laboratory since the existing monitoring program already included the new contaminants and the capability to run these new analyses is already established.

Costs to 4 Public Water System Laboratories:

The 4 publicly owned laboratories currently certified by DNR for chemical analysis are estimated to have \$216,000 in increased costs to adopt the new methods.

Bromate, Bromide, Chlorite - \$46,000/lab X 2 labs = \$92,000

DOC and TOC - \$36,000/lab X 3 labs = \$108,000

TTHM - \$0

HAAs - \$8,000/lab X 2 labs = \$16,000

IV. ASSUMPTIONS

1. The changes in the regulation add new and updated accepted methods for disinfection by-products and operational monitoring related to disinfectant by-product control. Laboratories will have to add equipment to be able to perform the analyses.
 - a. Bromate, Bromide, Chlorite - EPA methods 300.0 or 300.1. All the laboratories may not have this capability since the methods are used for only a few other contaminants. Cost for adding the equipment necessary is \$45,000 per laboratory with about 50 % of the labs needing to add the capability.
 - b. DOC and TOC – Standard Methods 5310 B or D. The laboratories may not have this capability since this is the first time such analyses have been required for drinking water. Cost for adding the equipment necessary is \$35,000 per laboratory with about 75 % of the labs needing to add the capability.
 - c. TTHM – replace EPA method 551 with 551.1. Many laboratories use a different method for TTHM or could easily accommodate the change to 551.1. No additional costs are anticipated for this change.
 - d. HAAs – EPA method 551.1 or 551.2 or Standard Method 6251 B. Most laboratories that already do TTHM or pesticides would already have the basic equipment necessary to run HAAs. An additional detector could be required at a cost of \$7,000 per laboratory with about 50 % of the labs needing to add the detector.
2. There will be an additional \$1,000 cost in manpower and materials to develop and document each new method and establish the detection limits.
3. Operational testing: It is assumed that the systems covered by the rule will already have a spectrophotometer based field kit and are performing measurement of chlorine residuals and other operational tests necessary, so no capital cost to water systems would result from the new operational testing methods.

**FISCAL NOTE
PRIVATE ENTITY COST****I. RULE NUMBER**

Title: 10

Division: 60

Chapter: 5

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
8	Private laboratories	Total Aggregate Cost =\$432,000

III. WORKSHEET

The estimated costs associated with new and updated analytical methods for disinfection by-products and associated operational tests were calculated as follows:

The 8 private laboratories currently certified by DNR for chemical analysis are estimated to have \$432,000 in increased costs to adopt the new methods.

Bromate, Bromide, Chlorite - \$46,000/lab X 4 labs = \$184,000

DOC and TOC - \$36,000/lab X 6 labs = \$216,000

TTHM - \$0

HAAs - \$8,000/lab X 4 labs = \$32,000

IV. ASSUMPTIONS

1. The changes in the regulation add new and updated accepted methods for disinfection by-products and operational monitoring related to disinfectant by-product control. Laboratories will have to add equipment to be able to perform the analyses.

- a. Bromate, Bromide, Chlorite - EPA methods 300.0 or 300.1. All the laboratories may not have this capability since the methods are used for only a few other contaminants. Cost for adding the equipment necessary is \$45,000 per laboratory with about 50 % of the labs needing to add the capability.
 - b. DOC and TOC – Standard Methods 5310 B or D. The laboratories may not have this capability since this is the first time such analyses have been required for drinking water. Cost for adding the equipment necessary is \$35,000 per laboratory with about 75 % of the labs needing to add the capability.
 - c. TTHM – replace EPA method 551 with 551.1. Many laboratories use a different method for TTHM or could easily accommodate the change to 551.1. No additional costs are anticipated for this change.
 - d. HAAs – EPA method 551.1 or 551.2 or Standard Method 6251 B. Most laboratories that already do TTHM or pesticides would already have the basic equipment necessary to run HAAs. An additional detector could be required at a cost of \$7,000 per laboratory with about 50 % of the labs needing to add the detector.
2. There will be an additional \$1,000 cost in manpower and materials to develop and document each new method and establish the detection limits.
3. Operational testing: It is assumed that the systems covered by the rule will already have a spectrophotometer based field kit and are performing measurement of chlorine residuals and other operational tests necessary, so no capital cost to water systems would result from the new operational testing methods.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.080 Licensing of Inspector/Mechanics. The division proposes to amend section (7) and to delete the forms following the rule from the *Code of State Regulations*.

PURPOSE: This proposed amendment deletes reference to the permit issued to emission certified mechanics due to recent changes in the administration of the emission program and deletes trailers from having to be safety inspected.

(7) [Three (3)] **Two (2)** types of inspector/mechanic permits are available—a permit that restricts the inspector/mechanic to motorcycle and motor tricycle inspections only[,] and a permit that authorizes an inspector/mechanic to safety inspect motor vehicles [and trailers; and a permit that authorizes an inspector/mechanic to perform safety and emissions inspections utilizing the Missouri Analyzer System (MAS)].

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.090 Inspection Station Operational Requirements. The division proposes to amend sections (5) and (10).

PURPOSE: This proposed amendment deletes reference to some of the operational requirements for inspection stations due to recent changes in the administration of the emission program.

(5) No owner, operator or employee of an inspection station shall furnish, loan, give or sell an approval certificate, inspection sticker or decal to any person except those entitled to receive it. [Only Missouri Analyzer System (MAS)-qualified inspector/mechanics may issue MAS certificates or safety and emissions stickers, or both.]

(10) Inspection stickers, decals, and MVI-2s (see 11 CSR 50-2.120) [and MAS certificates] will be kept under lock to prevent them from being lost, damaged or stolen. If stickers, decals, or MVI-2s [or MAS certificates] are lost, damaged or stolen, they shall be reported immediately to the Missouri State Highway Patrol.

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history,

please consult the *Code of State Regulations*. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.100 Requisition of Inspection Stickers and Decals. The division proposes to amend sections (1) and (2).

PURPOSE: This proposed amendment changes the price charged for inspections stickers and decals due to recent legislative changes effective July 1, 2000.

(1) Inspection stickers will be used on the windshield of passenger and commercial motor vehicles. Inspection stickers will be sold only in complete books of twenty (20) stickers at a cost of [fifteen dollars (\$15)] **thirty dollars (\$30)** per book. These stickers will be valid for any one (1) of the calendar years shown.

(2) Inspection decals will be used for motorcycle inspections and trailer verifications. Inspection decals will be sold only in complete books of twenty (20) decals at a cost of [fifteen dollars (\$15)] **thirty dollars (\$30)** per book. These decals are valid for any one (1) of the calendar years shown.

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivision more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.150 Brake Performance. The division proposes to amend subsection (1)(C).

PURPOSE: This amendment defines a procedure to be followed when brake testing machines are used as part of the brake test and is necessary due to recent legislative changes effective July 1, 2000.

(1) A brake performance test shall be performed by an inspector/mechanic on all single unit motor vehicles equipped with mechanical, hydraulic or power assisted hydraulic service brakes. The brake performance test may be conducted by using any one (1) of the following procedures: a decelerometer test, a drive and stop test, a brake testing machine, or a dynamometer test. The selected test shall be conducted on the inspection station premises.

(C) Brake Testing Machine. Drive vehicle onto brake testing machine. Apply brakes firmly at a speed from four to eight (4-8) mph without wheel lock-up. **If a computerized brake testing machine is utilized, a copy of the results will be provided to the vehicle owner.**

1. Reject vehicle if:

A. The vehicle is not capable of developing evaluated braking force equal to or greater than that shown for its classification as prescribed in Table I. At least three (3) tests should be made before a vehicle is rejected;

B. Any wheel fails to indicate braking action;

C. The reading on any one (1) wheel is less than seventy-five percent (75%) of the reading on the other wheel on the same axle; *[or]*

D. The braking force of both wheels on one (1) axle is more than seventy-five percent (75%) of the total force of all the wheels.; *or*

E. Master cylinder gasket is torn or misshaped.

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.160 Brake Components. The division proposes to amend section (2).

PURPOSE: This amendment details the procedure to follow if the brake performance test is conducted on a computerized brake testing machine allowed by recent legislative changes effective July 1, 2000.

(2) Drums, Discs, and Internal Brake Components. At least one (1) front or one (1) rear wheel and drum must be removed on each passenger vehicle, one-half (1/2) ton and three-quarter (3/4) ton pickup trucks, or similar type vehicles not equipped with dual rear wheels. Only the wheel must be removed on vehicles equipped with disc brakes. Identification marks shall be made on the wheel and lug before removal so the wheel can be remounted in the same

position to insure wheel balance. On drum brake systems, a new cotter pin must always be used when remounting a wheel and drum. **The removal of a wheel and/or drum is not required if the brake performance test has been administered using an approved computerized brake testing machine. When an approved computerized brake testing machine is used, and no wheel is removed, the inspector shall mark through the space on the MVI-2 form provided for "Brake Inspected" with the letters "CBTM."** When removal of a wheel is required, a wheel appearing to leak brake fluid or grease, shall be the wheel removed to inspect for contamination. Wheels on four (4)-wheel drive vehicles equipped exclusively with drum-type brakes are not required to be removed.

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

PROPOSED AMENDMENT

11 CSR 50-2.290 Fuel [Tank] System. The division proposes to amend the rule title, amend section (1), amend subsections (2)(A) and (2)(B), amend section (3), and amend subsections (4)(A) and (4)(B).

PURPOSE: This amendment requires the inspection of the entire fuel system and not just the fuel tank because of recent legislative changes effective July 1, 2000.

(1) Inspect the fuel tank(s), fuel lines and connections *[at the fuel tank(s)]*, filler tube, and filler tube cap on gasoline or diesel fueled vehicles.

(2) Reject vehicle if:

(A) There is fuel leakage *[in the fuel line connections]* at *[the tank(s)]* any location;

(B) Fuel tank is not securely attached *[or leaks]*; or

(3) Inspect Compressed Fuel Systems *[Tank(s) and fuel line connections at the fuel tank(s)]*. Inspect for the decal issued by the Division of Weights and Measures, Department of Agriculture on liquefied petroleum gas (LPG) systems.

(4) Reject compressed fuel systems if:

(A) There is fuel leakage *[in the fuel line connections]* at *[the tank(s)]* any location;

(B) Fuel tank is not securely attached *[or leaks]*; or

AUTHORITY: section 307.360, RSMo 1994. Original rule filed Nov. 9, 1971, effective Nov. 19, 1971. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Feb. 1, 2000, effective July 1, 2000, expires Dec. 27, 2000. Amended: Filed Feb. 1, 2000.

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

PRIVATE ENTITY COST: *This proposed amendment will not cost private entities more than \$500 in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.320 School Bus Inspection. The division proposes to amend section (9), subsections (9)(A) and (9)(C), to add a new subsection (9)(B) and to reletter old subsection (9)(B) to (9)(C). The division also proposes amendments to section (16), subsections (16)(A) and adding new paragraph (16)(B)5. and new subsection (22)(K).

PURPOSE: *This proposed amendment is consistent with recent legislative changes effective July 1, 2000 requiring the inspection of not only emergency doors but also exits on school buses. Also, the inspection of fuel tanks has been expanded to include the entire fuel system.*

(9) Emergency Door(s), Exits and Buzzer.

(A) All school buses shall be equipped with an emergency door or exit located in the rear and may be equipped with *[an]* additional emergency doors and exits on the left or right side of the school bus. The emergency door shall be designed to be opened from inside and outside. The device used to open the door from the outside shall be designed to prevent hitching to, but one which permits opening when necessary. The rear emergency door latch shall be equipped with an interior handle that lifts upward to release and *[it]* all emergency doors and exits shall be equipped with a suitable electric *[plunger-type]* switch connected with a buzzer audible in the driver compartment. The switch shall be installed in a manner that any movement of the slide bar or release mechanism will immediately sound the buzzer. *[The words EMERGENCY DOOR shall be placed inside and outside in letters at least two inches (2") high directly above the emergency door or displayed on the uppermost part of the door or door glass.]* All emergency doors and exits shall be identified by the words EMERGENCY DOOR or EMERGENCY EXIT both inside and outside the bus in letters two inches (2") high in the immediate area of the door or exit. A metal guard shall be placed over the door control on the inside of a rear door. The passageway to the emergency door shall be at least twelve inches (12") wide on all school buses. Type A school buses designed as 1974 or later models must be equipped with an emergency door buzzer. A lock may be placed on *[the]* an emergency door or exit. *[only if]* However, the engine starting and operating system *[will]* must not function if *[the]* any emergency door or exit is locked from either the inside or outside of the bus.

(B) Inspect all emergency door(s) and exits for operation by opening and closing and for proper lettering.

[(B)](C) Reject vehicle if the:

1. Doors or exits bind or catch when opening;

[1.]2. Passageway to the emergency door is blocked or restricted in any way to less than twelve inches (12") in width;

[2.]3. Any emergency *[D]*door *[and]* or exit release mechanism fails to work properly, from the inside or outside the bus;

[3.]4. Slide bar on Types B, C, and D buses has less than one inch (1") stroke length;

[4.]5. Buzzer fails to sound or is not audible in the driver's compartment or in the vicinity of the emergency door when the slide bar is moved;

[5.]6. Words EMERGENCY DOOR or EMERGENCY EXIT are not properly displayed; or

[6.]7. Bus engine will start with emergency door(s) or exits locked.

(16) Fuel *[Tank(s)]* System.

(A) Inspect the entire liquefied petroleum gas (LPG) system *[tank(s) and fuel lines connections at the tank(s), and venting].*

(B) Reject vehicle if:

1. Fuel tank(s) is not securely attached to the outside of the frame rail by a system other than welding. If saddle clamps are used, on buses after December 31, 1989, either at time of assembly or replacement, each tank must be attached with a minimum of two (2) clamps which are a minimum of three-eighths inch by two inch (3/8" × 2") steel;

2. The safety relief venting system is absent, damaged or designed so that escaping gas is directed other than upwards within forty-five degrees (45°) of the vertical (outside the bus body);

3. The safety relief venting system does not have a functional pressure sensitive closing device (cap); *[or]*

4. The fuel tank(s) or any part of the fuel system is the lowest point of the vehicle *[.]*; or

5. There are leaks at any location.

(22) Out-of-Service Criteria. The following items will result in buses being put out-of-service until needed repairs are made. These criteria will be used only by Missouri State Highway Patrol personnel and are not applicable at official inspection stations:

(I) If the one-half inch (1/2") hex nut attached to one (1) end of a one-eighth inch (1/8") drawstring catches on the handrail and lodges between the handrail mounting bracket and the sheet metal body of the bus or the drawstring catches during the handrail drawstring test; *[or]*

(J) If not equipped with the crossing arm as required or if the crossing arm does not operate when the stop signal arm and over-head warning flashers are activated *[.]*; or

(K) If fuel is leaking from any part of the fuel system.

AUTHORITY: *sections 307.360.2, RSMo 1994 and 307.375, RSMo [Supp. 1998] Supp. 1999. Original rule filed Nov. 4, 1968, effective Nov. 14, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 1, 2000.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than \$500 in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.430 Verification of Homemade Trailers. The division proposes to amend subsections (6)(A)–(6)(C).

PURPOSE: This proposed amendment deletes reference to emissions forms which are now obsolete due to recent changes in the administration of the emission program.

(6) Forms Procedure.

(A) List the trailer owner's name, street, city and county in the appropriate spaces on the MVI-2 form (see 11 CSR 50-2.120). *[or location required on the computerized emission analyzer form. When using the manual form and]* If the trailer is determined to be homemade write the word "Homemade" in the space for make, cross through the space for year and vehicle identification number (VIN). Either write the words "Trailer Verification" in large letters across the form in the space for defective part or check the applicable box on the MVI-2 form. Complete the MVI-2 form in the normal manner. *[When using the computerized form, select the word "Homemade" and continue to fill in any required fields.]*

(B) Issue a trailer decal for the trailer listing the decal number in the appropriate space on the MVI-2 form *[or location printed on the computerized emission analyzer form]*. In addition to punching the decal for the month and year, also punch the decal through the words "Safety Inspected" to indicate the decal has been issued for a trailer verification. Immediately affix the decal to the trailer near the left front or on the left side of the trailer tongue.

(C) If the trailer is determined to be one made by a regular manufacturer, list the trailer make and VIN in the appropriate space on the MVI-2 form *[or location required on the computerized emission analyzer form]*. Fill in the year of the trailer, if known. Issue a decal for the trailer as indicated in subsection (6)(B). If a Department of Revenue special number has been previously issued for the trailer, list the number on the MVI-2 form in the space for Defective Part *[or on the computerized analyzer form, write the number in the center of the blank space above the inspector mechanic's signature]*.

AUTHORITY: sections 301.380, RSMo Supp. 1999 and 307.360, RSMo 1994. Emergency rule filed Aug. 15, 1984, effective Sept. 1, 1984, expired Dec. 30, 1984. Original rule filed Sept. 12, 1984, effective Jan. 1, 1985. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivision more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division**

PROPOSED AMENDMENT

11 CSR 50-2.440 Vehicle Identification Number and Odometer Reading Verification. The division proposes to amend subsection (6)(A).

PURPOSE: This proposed amendment deletes reference to emission forms which are now obsolete due to recent changes in the administration of the emission program.

(6) Forms Procedure.

(A) List the motor vehicle owner's name, street, city and county in the appropriate spaces on the MVI-2 form (see 11 CSR 50-2.120). If the VIN and odometer reading are correctly displayed, either write the words "ID/OD Verification" in large letters across the form in the space for defective part or check the applicable box on the MVI-2 form. Complete the MVI-2 form in the normal manner. *[Stations using the Missouri Analyzer System (MAS) shall enter the information in the analyzer as required and issue the MAS Certificate.]*

AUTHORITY: sections 301.190 and 307.190, RSMo Supp. 1999 and 307.360, RSMo 1994. Original rule filed May 21, 1986, effective Aug. 25, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 1, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivision more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle Bureau**

PROPOSED AMENDMENT

12 CSR 10-23.100 Personalized License Plates. The director proposes to amend several sections of this rule, add new sections, and renumber existing sections, in addition to replacing the form published at the end of this rule.

PURPOSE: This proposed amendment establishes uniform categories of special personalized license plates and outlines the requirements for biennial registrations for special license plates.

(1) For the purpose of this rule, "special license plates" shall include personalized, collegiate, helping schools and other special organizational license plates.

[(1)] (2) [Personalized] Special license plates[, including collegiate license plates,] are Missouri license plates containing letters or numbers [or combinations of letters and numbers which are issued to an applicant requesting a particular and specialized arrangement of letters, numbers or combinations of letters and numbers] in the format requested by the applicant. The combination of letters and/or numbers may include one apostrophe (') or one dash (-).

[(2) The letters or numbers or combinations of letters and numbers on personalized license plates, shall not exceed six (6) characters in length, in addition to a dash or an apostrophe; except that motorcycle, motortricycle, Purple Heart, collegiate and disabled persons' personalized license plates shall be limited to five (5) characters in length. If the applicant chooses to include a dash (-) or an apostrophe (') in the letters or numbers or combination of letters and numbers, on a Purple Heart, collegiate or disabled person personalized plate then the character length shall be restricted to four (4).]

[(3)] *Collegiate license plates may be issued to any motor vehicle subject to the registration fees according to horsepower, as provided in section 301.055, RSMo, or to beyond local property-carrying commercial motor vehicles licensed for a gross weight not to exceed twelve thousand pounds (12,000 lbs.), as provided in section 301.057, RSMo. Other personalized license plates may be issued to any motor vehicle, other than a commercial motor vehicle licensed for more than twelve thousand pounds (12,000 lbs.), in any one (1) of the following categories:*

(A) *Motorcycle and Motortricycles—regular plate, disabled veteran plate and disabled person plate, former Prisoner of War (POW) plate, historic plate, national guard plate and fire department plate;*

(B) *Recreational Motor Vehicles—regular plate, disabled person plate, national guard plate, Purple Heart plate and fire department plate;*

(C) *All Other Motor Vehicles Other Than Commercial Motor Vehicles—regular plate, disabled person plate, disabled veteran plate, street rod plate, former POW plate, historic plate, national guard plate, Pearl Harbor survivor, military reserve, Purple Heart plate and fire department plate;*

(D) *Commercial Motor Vehicles Licensed for Twelve Thousand Pounds (12,000 lbs.) or Less—local plate, beyond local plate, disabled veteran plate, disabled person plate, street rod plate, former POW plate, national guard plate, Purple Heart plate, fire department plate;*

(E) *Commercial Motor Vehicles Licensed for Beyond Local Twelve Thousand Pounds (12,000 lbs.)—Pearl Harbor survivor and military reserve plate;*

(F) *Shuttle Bus—regular plate;*

(G) *Van Pool—regular plate; and*

(H) *Historic—regular plate.]*

(3) **All special personalized license plates are available in the following plate categories:**

(A) **Passenger;**

(B) **Recreational Vehicle;**

(C) **Local 6;**

(D) **Local 12;**

(E) **Beyond Local 6;**

(F) **Beyond Local 12;**

(G) **Motorcycle/Motortricycle;**

(H) **Local and Beyond Local 18—Professional Sports Team license plates only;**

(I) **Shuttle Bus—regular personalized plates only;**

(J) **Van Pool—regular personalized plates only; and**

(K) **Historic—regular personalized plates only.**

[(4)] *The decision of the director of revenue as to whether a motor vehicle is a commercial motor vehicle licensed for more than twelve thousand pounds (12,000 lbs.) for the purpose of registration shall be final and conclusive.]*

[(5)] (4) No [personalized] special license plate[, including collegiate license plates,] will be issued which will conflict with any license number used or to be used in the regular license plate numbering system. [Example: No personalized license plate containing numbers only will be issued with more than four (4) characters and no personalized license plate will be issued containing one (1) letter followed by more than three (3) numbers and no plates will be issued containing a number immediately preceded by the letter D as the first character in the combination.]

[(6)] (5) No two (2) owners shall be issued identical plates; and no plates shall be issued containing or suggesting any profane or obscene word or phrase.

[(7)] (6) No refunds will be made on the unused portion of any license plates surrendered for [personalized] special license plates[, including collegiate license plates].

[(8)] (7) [Personalized] Special license plates[, including collegiate license plates,] are not assigned to a particular vehicle until the plates are actually issued to the owner of that vehicle by the Department of Revenue.

[(9)] (8) [Personalized] Special license plates[, including collegiate license plates,] shall not be transferred from one (1) owner to another, except that the holder of a [personalized] special plate may follow the procedures established by the director in order to display his/her [personalized] special plate on a vehicle leased by the holder after approval by the director; and they shall not be transferred from one (1) vehicle category to another. This includes any request for transfer by gift, trust, will or judicial proceeding.

[(10)] (9) The director of revenue shall reserve the right to approve or disapprove any request for [personalized] special license plates[, including collegiate license plates,] or the transfer of license plates from one (1) vehicle to another in the same category.

[(11)] *The director of revenue may reject and return any original application or reapplication (renewal) which is incomplete.*

(12) *The month of expiration on all personalized license plates will be July of each year, except for motorcycles, motortricycles, special personalized license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general in accordance with section 301.144, RSMo and collegiate license plates.]*

[(13)] (10) The month of expiration on all [personalized] special license plates for motorcycles and motortricycles will be April of each year. Special [personalized] license plates issued to the United States Congress, Missouri State Senate, Missouri House of Representatives and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, which are issued in accordance with section 301.144, RSMo will expire in January of each year. The month of expiration on all other [collegiate license plates will be October of each year] special license plates shall be staggered.

[(14)] (11) Any person [desiring] wanting to obtain [personalized] special license plates[, including collegiate license plates,] must make original application for the plates on a form approved by the director of revenue and shall pay a fee of fifteen dollars (\$15) in addition to the regular registration fees. **If at the time of registration the applicant applies for a biennial registration, s/he must submit a second special/personalized license plate fee.** Application forms will be available to the public at all branch offices, fee agent offices and [Jefferson City offices] the Central Office of the department.

[(15)] (12) Each initial application for [personalized] special license plates[, including collegiate license plates,] shall be on a form prescribed by the director and submitted to the Department of Revenue, P.O. Box 100, Jefferson City, MO 65105-0100. Each application shall be accompanied by a [personalized] special license plate fee of fifteen dollars (\$15), and a current emblem-use authorization statement in the case of collegiate license plates [and shall contain the following:

(A) The name and address of the applicant;

(B) The type of motor vehicle for which the personalized plates are requested;

(C) The letters, numbers or combination of letters and numbers desired; and

(D) The location of the Department of Revenue branch office or fee office at which the applicant wishes to pick up personalized license plates or, when applicable, exchange regular plates for personalized license plates].

(13) If the applicant applies for a biennial registration at the time s/he picks up his/her special license plates, the applicant must submit a second emblem-use authorization statement indicating the minimum donation or the original emblem-use authorization statement indicating twice the annual minimum donation.

[[16]] (14) An applicant may receive his/her [personalized] special license plates[, including collegiate license plates] by surrendering his/her regular registration plates and paying any additional fees due on a prorated basis or by not surrendering his/her plates and paying the full registration fee.

[[17]] Upon approval of an application for personalized license plates, including collegiate license plates, the Department of Revenue will contact the applicant with instructions as to the date and location at which the personalized plates may be obtained and the outstanding plates exchanged.

(18) An applicant may request that personalized license plates, including collegiate license plates, be issued to any particular motor vehicle which s/he owns, other than a commercial vehicle licensed for more than twelve thousand pounds (12,000 lbs.), provided that the vehicle is of a category for which the personalized plates were manufactured.]

[[19]] (15) Once an owner obtains [personalized] special license plates[, including collegiate license plates,] s/he shall have first priority on those plates for each of the following years that s/he makes timely and appropriate reapplication (renewal) for those plates and pays the annual special plate fee of fifteen dollars (\$15) or thirty dollars (\$30) for a biennial registration and any [special] personalized plate fee required by law, in addition to the regular registration fees. [and for] Applicants who renew collegiate license plates, helping schools and special organizational license plates must also submit/s] a new emblem-use authorization statement. At the time of renewal, if the applicant elects a biennial registration, s/he must present an emblem use statement that reflects at least twice the amount of the annual donation.

[[20]] (16) [Personalized] Special license plates[, including collegiate license plates,] for which the Department of Revenue has not received a reapplication (renewal) will be held for sixty (60) days from the date of expiration before being issued to a new applicant.

[[21]] Original applications except for motorcycle, motortricycle, collegiate license plates and special personalized license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and for the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, in accordance with section 301.144, RSMo, filed prior to March 1 of any calendar year shall be treated as applications for personalized license plates with an expiration month of the coming July. Original applications except for motorcycle, motortricycle, collegiate license plates and special personalized license plates issued to members of

the United States Congress, Missouri State Senate, Missouri House of Representatives and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general in accordance with section 301.144, RSMo, filed after the last day of February of any calendar year will be treated as applications for personalized license plates to be issued in the coming July with an expiration month of the succeeding July.

(A) Example One: Original application filed on February 29, 1984, will result in personalized license plates which expire in July of 1984.

(B) Example Two: Original application filed on March 1, 1984, will result in personalized license plates issued in July of 1984 with an expiration month of July 1985.]

[[22]] (17) Original applications for [personalized] special license plates for motorcycles and motortricycles filed prior to January 1 of any calendar year shall be treated as applications for [personalized] special license plates with an expiration month of the coming April. Original applications for [personalized] special license plates for motorcycles and motortricycles filed after December 31 of any calendar year will be treated as applications for [personalized] special license plates to be issued in the coming April with an expiration month of the next succeeding April.

(A) Example One: Original application filed on December 31, [1983] 1999, will result in [personalized] special license plates which expire in April of [1984] 2000.

(B) Example Two: Original application filed on January 1, [1984] 2000, will result in [personalized] special license plates issued in April of [1984] 2000 with an expiration month of April [1985] 2001.

[[23]] (18) Original applications for special [personalized] license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and for the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, in accordance with section 301.144, RSMo, filed prior to October 1 of any calendar year shall be treated as applications for special [personalized] license plates with an expiration month of the coming January, while applications. Original applications for special personalized license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and for the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, in accordance with section 301.144, RSMo, filed after the last day of September of any calendar year will be treated as application for special [personalized] license plates to be issued in the coming January with an expiration month of the next succeeding January.

(A) Example One: Original applications filed on September 30, [1989] 2000, will result in special [personalized] license plates which expire in January [1990] 2001.

(B) Example Two: Original applications filed on October 1, [1989] 2000, will result in special [personalized] license plates issued in January of [1990] 2001 with an expiration of January [1991] 2002.

[[24]] Original applications for collegiate license plates filed prior to July 1 of any calendar year shall be treated as applications for collegiate license plates with an expiration month of the upcoming October, with the exception of plates issued during the first year of issuance (1990). In this case, applications filed prior to July 1, 1991, will result in the issuance of collegiate license plates expiring in October 1991. Original applications filed after the last day of June of any calendar year will be treated as applications for collegiate license plates to be issued in the upcoming October with an expiration month of the next succeeding October.

(A) *Example One: Original application filed between June 30, 1990, and June 30, 1991, will result in the issuance of collegiate license plates which expire in October of 1991 since the application was filed during the first year of issuance.*

(B) *Example Two: Original application filed on or after July 1, 1991, will result in collegiate license plates issued in October of 1991 which expire in October of 1992.*

(25) Reapplications (renewals) for personalized license plates, except for motorcycles, motortricycles, collegiate license plates and special personalized license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, in accordance with section 301.144, RSMo, shall be filed with the Department of Revenue prior to the last day of July each year.

[(26)] (19) Reapplications (renewals) for [personalized] special license plates [for motorcycles and motortricycles] shall be filed with the Department of Revenue prior to the last day of [April of each year] the month in which they expire.

[(27) Reapplications (renewals) for special personalized license plates issued to members of the United States Congress, Missouri State Senate, Missouri House of Representatives and the following statewide elected officials: governor, lieutenant governor, secretary of state, state auditor, state treasurer and attorney general, in accordance with section 301.144, RSMo, shall be filed with the Department of Revenue prior to the last day of January each year.

(28) Reapplications (renewals) for collegiate license plates shall be filed with the Department of Revenue prior to the last day of October each year.]

[(29)] (20) The director of revenue may recall any [personalized] special license plate/s, including collegiate license plates,] erroneously issued under this rule.

[(30) Applicants for any personalized license plates, including collegiate license plates, shall be required to comply with all Missouri laws and regulations relating to the titling and registration of motor vehicles.]

AUTHORITY: sections 301.144, 301.449 and 301.451, RSMo [1994] Supp. 1999. Original rule filed Aug. 14, 1978, effective Nov. 13, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 31, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.



MISSOURI DEPARTMENT OF REVENUE
MOTOR VEHICLE BUREAU
P.O. BOX 100, JEFFERSON CITY, MO 65105-0100 (573) 526-3669

**APPLICATION FOR MISSOURI
PERSONALIZED AND SPECIAL LICENSE PLATES**

SEE INSTRUCTIONS ON REVERSE

**"ANY FALSE STATEMENT IS A VIOLATION OF
THE LAW AND MAY BE PUNISHED BY FINE,
IMPRISONMENT, OR BOTH." (301.420 RSMO.)**

NAME MUST APPEAR AS SHOWN ON VEHICLE TITLE		DO NOT WRITE IN THIS AREA
OWNER'S NAME		
STREET, RR, OR P.O. BOX NUMBER	CURRENT LICENSE NUMBER	
CITY, STATE, ZIP CODE	TELEPHONE NUMBER	

☐ New Application ☐ **Adding a Name ☐ **Dropping a Name (Release of Interest Req) ☐ **Name Change Only (Same Owner)

CATEGORY OF LICENSE PLATE (PLEASE CHECK WHICH CATEGORY OF LICENSE PLATE YOU NEED)

- ☐ Passenger (car) ☐ Beyond Local 12 Truck ☐ Motorcycle
☐ Beyond Local 6 Truck ☐ Local 12 Truck
☐ Local 6 Truck ☐ Recreational Vehicle

PROFESSIONAL SPORTS TEAM PLATES ONLY

- ☐ Beyond Local 18 Truck ☐ Local 18 Truck

TYPE OF LICENSE PLATE TO BE ISSUED (Proof of eligibility required - see reverse)

TYPE

- | | |
|--|--|
| <input type="checkbox"/> Regular Personalized (\$15)
<input type="checkbox"/> *Amateur Radio (\$15) Call Letters _____
<input type="checkbox"/> Children's Trust Fund (Regular) (\$15)
<input type="checkbox"/> Children's Trust Fund (Personalized) (\$15)
<input type="checkbox"/> Collegiate (Personalized) (\$15) College or University _____
<input type="checkbox"/> Disabled Person (Personalized) (\$15)
<input type="checkbox"/> Ducks Unlimited (Personalized) (\$15)
<input type="checkbox"/> Eastern Star (Personalized) (\$15)
<input type="checkbox"/> Emergency Medical Services (\$15)
<input type="checkbox"/> Paramedic <input type="checkbox"/> Emergency Medical Technician
<input type="checkbox"/> *Firefighter (Regular) (\$15)
<input type="checkbox"/> *Firefighter (Personalized) (\$30)
<input type="checkbox"/> Fraternal Order of Eagles (Personalized) (\$15)
<input type="checkbox"/> Helping Schools (Personalized) (\$15)
<input type="checkbox"/> Knights of Columbus (Personalized) (\$15)
<input type="checkbox"/> Legislative (\$15)
<input type="checkbox"/> Lions Club (Regular) (\$15) | <input type="checkbox"/> Lions Club (Personalized) (\$15)
<input type="checkbox"/> Masonic Grand Lodge (Personalized) (\$15)
<input type="checkbox"/> Missouri Jaycee (Regular) (\$15)
<input type="checkbox"/> Missouri Jaycee (Personalized) (\$30)
<input type="checkbox"/> Prince Hall (Personalized) (\$15)
<input type="checkbox"/> Professional Sports Team (Personalized) (\$15)
<i>(subject to availability and minimum order requirements)</i>
<input type="checkbox"/> Kansas City Blades <input type="checkbox"/> St. Louis Blues
<input type="checkbox"/> Kansas City Chiefs <input type="checkbox"/> St. Louis Cardinals
<input type="checkbox"/> Kansas City Royals <input type="checkbox"/> St. Louis Rams
<input type="checkbox"/> Kansas City Wizards
<input type="checkbox"/> *Street Rod (Regular) (\$15)
<input type="checkbox"/> *Street Rod (Personalized) (\$30)
<input type="checkbox"/> Shuttle Bus (\$15)
<input type="checkbox"/> Vanpool (\$15)
<input type="checkbox"/> Other _____ |
|--|--|

***APPLICATION MUST BE NOTARIZED**

PERSONALIZED PLATE CHOICES (Complete only if applying for personalized plates)

PLEASE USE ALL CAPITAL LETTERS AND SHOW CHOICES IN ORDER OF PREFERENCE. *(Please include more than one choice.)* Personalized license plates may consist of no more than six characters or six characters plus a dash, space or an apostrophe. Personalized plates displaying an emblem, motorcycle and motortricycle plates may consist of no more than six characters or five characters plus a dash, space or an apostrophe. The wheelchair accessibility symbol is displayed on Disabled Persons plates. The Department of Revenue **will not** issue plates that contain or suggest profane, obscene or inflammatory words or phrases, those contrary to public policy, or those that conflict with the regular license numbering system.

FIRST CHOICE	SECOND CHOICE	THIRD CHOICE	FOURTH CHOICE	FIFTH CHOICE	SIXTH CHOICE

LICENSE OFFICE INFORMATION AND SIGNATURE (Must be completed by all applicants)

IMPORTANT: These license plates will not be mailed. Indicate name of license office where plates are to be picked up.

OFFICE	OFFICE NUMBER	I hereby apply for the personalized or special license plate indicated to be issued to the vehicle owner listed above.
STREET	CITY	
		SIGNATURE OF OWNER OR APPLICANT X

NOTARY INFORMATION (Must be completed if applying for amateur radio, fire department or street rod plates)

NOTARY PUBLIC EMBOSSEY OR BLACK RUBBER STAMP SEAL	STATE OF	COUNTY (OR CITY OF ST. LOUIS)
	SUBSCRIBED AND SWORN BEFORE ME, THIS	
	DAY OF	
	YEAR	
	NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES
	NOTARY PUBLIC NAME (TYPED OR PRINTED)	
USE RUBBER STAMP IN CLEAR AREA BELOW.		

INSTRUCTIONS TO APPLICANT

Applications must be completed, signed and submitted with the fee noted on the front of the application. This annual fee is in addition to the regular registration fee set by law and is payable upon renewal. Depending on the type of license plates requested, additional documentation may be required as noted below. Make check or money order (do not send cash) payable to the Missouri Department of Revenue and forward with this application to: MISSOURI DEPARTMENT OF REVENUE, MOTOR VEHICLE BUREAU, PERSONALIZED LICENSE PLATE SECTION, P.O. BOX 100, 301 W. HIGH ST., JEFFERSON CITY, MO 65105-0100. If you have questions, call (573) 526-3669.

Special license plates are issued only to those vehicles that are titled and registered in Missouri. Any special plate issued may be adapted to include the international wheelchair accessibility symbol and the word "DISABLED"

The pink copy of the validated DOR-1716 is proof your application for license plates has been received and approved by the Department of Revenue. If you requested personalized plates, they are being manufactured. You will receive additional notification in approximately two (2) to four (4) weeks when your license plates have been forwarded to the license office you indicated on the front of this application.

NOTE: IF PERSONALIZED LICENSE PLATES ARE NOT RENEWED WITHIN 60 DAYS OF EXPIRATION THEY MAY BE REISSUED TO ANOTHER APPLICANT.

AMATEUR RADIO PLATES: Your notarized signature on the front of this application constitutes a sworn statement that you hold an unrevoked and unexpired amateur radio license and that the call letters indicated on the front of this application are the official call letters issued by the FCC. You must submit a copy of your Federal Communications License with this application.

DISABLED PERSON PLATES: A signed physician's statement, DOR-1776, from a licensed physician, chiropractor, podiatrist, or optometrist must be submitted with your application.

FIREFIGHTER PLATES: Your notarized signature on the front of this application constitutes a sworn statement that you are a director of a fire protection district, or are compensated, partially compensated or a volunteer member of any fire department, fire protection district or voluntary fire protection association in Missouri. You further affirm that if you resign, are removed, or otherwise terminate association with the fire department, you will return your special license plates to the Department within fifteen (15) days.

STREET ROD PLATES: Your notarized signature on the front of this application constitutes a sworn statement that this vehicle was manufactured in 1948 or before and has been modified for safe road use including but not limited to modification to the drive train, suspension, brake system, and safety or comfort apparatus and which is not owned solely as a collector's item and which is not or intended to be used solely for exhibition and educational purposes. This registration is not transferable. If the vehicle is disposed of, plates must be returned to the Department of Revenue for cancellation.

MISSOURI JAYCEES PLATES: You must submit proof of membership in the form of a membership identification card.

CHILDREN'S TRUST FUND, COLLEGIATE, DUCKS UNLIMITED, EASTERN STAR, EMERGENCY MEDICAL SERVICES, FRATERNAL ORDER OF EAGLES, HELPING SCHOOLS, KNIGHTS OF COLUMBUS, LIONS CLUB, MASONIC GRAND LODGE, PRINCE HALL, AND PROFESSIONAL SPORTS TEAM: You must submit an Emblem/Logo Use Authorization Statement from the organization, college or university as proof of a donation.

NOTE: PROFESSIONAL SPORTS TEAM LICENSE PLATE: The Department of Revenue must receive a minimum of one hundred applications for each specific professional sports team before producing the license plates.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE Division 10—Market Development Chapter 5—Price Reporting

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under sections 277.200 through 277.215, RSMo Supp. 1999, the director hereby adopts a rule as follows:

2 CSR 10-5.010 Price Reporting Requirements for Livestock Purchases by Packers is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2676-2679). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on December 16, 1999 from 10:00 a.m.-11:30 a.m. in the third floor conference room of the Missouri Department of Agriculture Building. No comments were received during the public hearing. No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on Oct. 1, 1999 (24 MoReg 2318). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2318-2319). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received written comments from several sources. The Commission also made a minor grammatical change to the rule by inserting the word "the" before the words "Public Counsel" in section (16).

COMMENT: In section (2), the "certificate of service" refers to "the name of the party served." One comment suggested that this should be "attorney of record served or the name of the party served."

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the suggested wording does clarify the intent. The Commission will amend the provisions to include "attorney of record served" as suggested.

COMMENT: The proposed rule adds a definition, section (2), for "certificate of service," meaning a "document showing the caption of the case, the name of the party served, the date and manner of service, and the signature of the serving party or attorney." One comment states that the Commission should clarify that as long as the certificate of service contains the information required by the new definition, the certificate could be incorporated into a pleading (e.g., at the end of the pleading as is customarily done today). **RESPONSE:** The Commission agrees that as long as the certificate of service contains the information required, the certificate could be incorporated into a pleading. The Commission will clarify this intent by adding the words "or page of a document" to the definition.

COMMENT: One comment recommends that section (9) be revised as discussed in the provision regarding section (17). There is a need to balance the public policy preference for open records and the need of the company to protect confidential information.

Highly confidential (HC) information is information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation relating to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations where the party seeking protection from the disclosure of this information has made a showing that the detriment to the party outweighs the public interest in public disclosure.

RESPONSE: The Commission has reviewed the comment and has determined that, although the comment contains some merit, it requires further review. In addition, the proposed changes would be of such a substantial nature that they would best be addressed in a new proposed rulemaking. The Commission will keep the comments in mind for possible future revisions. No changes were made to the proposed rule as a result of this comment.

COMMENT: One comment states that the terms “highly confidential information” and “proprietary information,” found in sections (9) and (17), have been included in the Commission’s “standard” protective order for many years. It is a waste of natural resources for the Commission to issue a separate, multipage protective order in each instance where the text of the protective order has not changed in many years. Therefore, the Commission should adopt a rule containing the text of the protective order. Then, when the Commission decides to issue an order making the protective order apply in a particular case, the Commission can simply issue a one-page order saying the protective order, as provided in the rule, is in effect. If the Commission wishes to issue a non-standard protective order, it can at least incorporate by reference the provisions in the rule that would still apply. This suggestion could save potentially thousands of pieces of paper.

RESPONSE: The Commission has reviewed the comment and has determined that, although the comment contains some merit, further review is necessary. In addition, the matter would best be addressed in a separate rulemaking provision and not in the definitions rule. No changes were made to this rule as a result of this comment.

COMMENT: One comment states that although section (12) purports to define “person,” the term “person” is already statutorily defined and the Commission does not have the statutory authority to expand on a statutorily defined term. There are numerous court cases which say that any rule which expands on or conflicts with a statute is void. See, e.g., *Missourians for Honest Elections v. Missouri Elections Commission*, 536 S.W.2d 766, 772 (Mo. App. E.D. 1976). The rule should simply reference the statutory section.

RESPONSE: The Commission disagrees with the comment’s interpretation and applicability of the cited case. The Commission notes that the proposed definition of “person” is very similar to the current rule’s definition of “person.” The proposed definition substitutes the term “natural person” for the previous term of “individual.” The proposed definition also added the phrase “state or federal agency.” These changes were made to clarify the rule. The Commission finds that these changes are appropriate procedural changes and do not change any substantive rights. No changes were made to the rule as a result of this comment.

COMMENT: One comment indicates that the “Pleading” definition in section (13) should specify that the “staff recommendation” is a pleading so that the response time rule applies. A Staff recommendation is always signed by an attorney for the General Counsel’s Office and is treated in every significant way as if it were a pleading.

COMMENT: Another comment suggests that the Commission should add “staff recommendation” to the enumerated documents

considered to be a pleading in section (13), or at least clarify in its discussion of the final rule that it considers recommendations from the Staff of the Missouri Public Service Commission to be “pleadings.”

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees to amend the definition of pleading to include Staff recommendation.

COMMENT: One comment indicates that section (13) should specify whether a Staff “recommendation” is a pleading or not, or the Commission should direct the Staff to cease filing “recommendations” which are not in the commonly recognized form of a pleading. The most problematic recommendations are those which are issued by the Staff in Actual Cost Adjustment proceedings. Sometimes these recommendations are complex and require more than ten days in which to formulate a response; they are also not in the form of a pleading with numbered paragraphs to which a response either admitting or denying the allegations can be made. If Staff recommendations are to continue in the current form, they should not be considered pleadings for purposes of the rule because the response time would be too short in most cases, and thus the Commission should issue orders specifying the response time in each instance.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the Commission finds that the definition of pleading should be amended to include Staff recommendation. If a party believes that in a particular case the standard response time is inadequate, it may file a motion requesting additional time. As a result of this and other comments, the Commission will amend the definition of pleading to include Staff recommendations.

COMMENT: A comment states that section (17) should be revised. It appears that the standard protective order mixes the scope of protection for proprietary and highly confidential (HC) information. Suggested language is as follows: “Proprietary Information - information concerning trade secrets, as well as confidential or private technical, financial and business information where the party seeking protection from the disclosure of this information has made a showing that public disclosure of the information would be detrimental to the party’s marketing and strategic planning of competitive products or services.”

RESPONSE: The Commission has reviewed this comment and determines that the rule is appropriate as written. However, if the Commission later decides to promulgate a new rule addressing protective orders, as suggested by another comment, the Commission will then reevaluate the definitions of “highly confidential information” and “proprietary information.” No changes were made to the rule as a result of this comment.

COMMENT: The Commission received a comment suggesting that although section (18) purports to define “public utility,” the term “public utility” is already defined in Section 386.020(42), RSMo 1994. The comment contends that the Commission does not have the statutory authority to expand on a statutorily defined term. There are numerous court cases which say that any rule which expands on or conflicts with a statute is void. See, e.g., *Missourians for Honest Elections v. Missouri Elections Commission*, 536 S.W.2d 766, 772 (Mo. App. E.D. 1976). The rule should simply reference the statutory section.

RESPONSE: The Commission disagrees with the comment’s interpretation and applicability of the cited case. The Commission notes that proposed definition of “public utility” is very similar to the current rule’s definition of this term. The changes are appropriate procedural changes intended to clarify the rule and are not intended to change any substantive rights. No changes were made to the rule as a result of this comment.

4 CSR 240-2.010 Definitions

(2) Certificate of service means a document or page of a document showing the caption of the case, attorney of record served or the name of the party served, the date and manner of service, and the signature of the serving party or attorney.

(13) Pleading means any application, complaint, petition, answer, motion, staff recommendation, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.

(16) Public counsel means the Office of the Public Counsel as created by the Omnibus State Reorganization Act of 1974, and includes the assistants who represent the public before the commission.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.015 Waiver of Rules is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2319). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received one comment regarding the proposed rule.

COMMENT: One comment indicated opposition to this revision, stating that the rule is too broad and does not provide adequate due process safeguards, including notice and opportunity to be heard on the proposed waiver. At a minimum, the rule should provide that the Commission may waive or modify a rule upon application of a party, with proper notice and an opportunity to intervene, and with adequate and reasonable opportunity to be heard, for good cause shown. It is error for the Commission not to follow its own rules. The broad, open-ended waiver provision leaves the rules and their application solely at the Commission's discretion and whim and does not provide the predictability and protection that the rules of procedure are designed to provide.

RESPONSE: The Commission has reviewed the comment and finds that it is in the public interest to include a waiver provision in the rules. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.040 Practice Before the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.040 Practice Before the Commission is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received two comments, one in support and one in opposition to the proposed rule.

COMMENT: One comment simply notes support of the proposed rule.

RESPONSE: The Commission appreciates the comment in support of the rule. The comment does not propose any changes and none were made as a result of this comment.

COMMENT: The new Section (6) allows an attorney to withdraw from a case at the Commission only with leave of the Commission. Attorneys in this state are governed as to their conduct by rules adopted by the Missouri Supreme Court. The Public Service Commission is not a court, and has no inherent authority over the ethical conduct of attorneys. While rule 4-1.16 of the Supreme Court Rules indicates that a "tribunal" can order an attorney to continue representing a client notwithstanding good cause for terminating the representation, there do not appear to be any provisions similar to proposed Section (6). Further, the comments to rule 4-1.16 indicate that there are situations where a client has a right to terminate a lawyer, and there are situations where a lawyer must withdraw from representation (mandatory withdrawal). There appears to be a conflict between Supreme Court Rule 4-1.16, e.g., a client's right to dismiss a lawyer at any time, and the Commission's unauthorized attempt to inject itself into that relationship. There is little, if any, authority for the Commission to promulgate rules regarding attorney conduct in this situation. Additionally, the Commission has provided no explanation in the Purpose section as to why this new provision is necessary. For these reasons, the Commission should not adopt this provision.

RESPONSE: The Commission has reviewed the comment and the rule and has determined that the requirement is within the Commission's authority. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.050 Computation of Effective Dates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2320-2321). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. Although most of the comments received were directed to the proposed rule, some comments are pertinent to the rescission and are noted here.

COMMENT: One comment notes that the former section (2) relating to the calculation of time if the allowed time is less than seven days should not be deleted. Deleting this provision would effectively reduce the time to respond by two or three days under the present rule practice. Clearly, four or five days is an unreasonable response time in many situations.

COMMENT: Another comment indicates that this proposed rule describes how periods of time prescribed by the Commission are to be computed. Section (2) of the current version of the rule provides an exception in such computations for periods of time less than seven days. In such cases, Saturdays, Sundays or legal holidays falling within the period are excluded from computation and the period is extended accordingly. The new rule eliminates this exception. Eliminating this exception will unduly shorten the time for a party to perform the required act (e.g., prepare and submit a responsive filing). As it is, parties routinely lose two to four days due to delay in mail delivery. In some cases, the delay has been five to seven days. Eliminating the current computational exception in section (2) could cause a party to lose most (and in some cases all) of its time to prepare and file a responsive pleading. The commenter requests that the Commission retain section (2) of the current rule 2.050.

RESPONSE: The Commission has reviewed these comments and finds that the deletion of former section (2) is appropriate. Section (12) of 4 CSR 240-2.080, Pleadings, specifically addresses the time allowed for responses to motions or other pleadings. However, the Commission has determined that 4 CSR 240-2.050 should be clarified by deleting the word "order" in the section (1). Section (2) shall be clarified by adding the phrase "the day the order was issued shall not be included, and" after the words "In computing the effective date of any order of the commission." In addition, the rule is more properly titled "Computation of Time" and not "Computation of Effective Dates," so the title has been revised. Therefore, the Commission has amended the rule but not in the manner requested by the comments.

COMMENT: One comment opposes the deletion of the phrase "except after the effective date of a tariff" in subsection (3)(B). Once a tariff is effective, it becomes law and cannot be modified without restarting the tariff process. The Public Service Commission cannot do by rule what the general law does not permit it to do.

RESPONSE: The Commission believes the deleted phrase is unnecessary. No changes were made to the rule as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received several written comments on this rule.

COMMENT: One comment indicates that the former section (2) relating to the calculation of time if the allowed time is less than seven days should not be deleted. Deleting this provision would effectively reduce the time to respond by two or three days under the present rule practice. Clearly, four or five days is an unreasonable response time in many situations.

COMMENT: another comment notes that this proposed rule describes how periods of time prescribed by the Commission are to be computed. Section (2) of the current version of the rule provides an exception in such computations for periods of time less than seven days. In such cases, Saturdays, Sundays or legal holidays falling within the period are excluded from computation and the period is extended accordingly. The new rule eliminates this exception. Eliminating this exception will unduly shorten the time for a party to perform the required act (e.g., prepare and submit a responsive filing). As it is, parties routinely lose two to four days due to delay in mail delivery. In some cases, the delay has been five to seven days. Eliminating the current computational exception in section (2) could cause a party to lose most (and in some cases all) of its time to prepare and file a responsive pleading. The commenter requests that the Commission retain section (2) of the current rule 2.050.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed these comments and finds that the deletion of former section (2) is appropriate. Section (12) of 4 CSR 240-2.080, Pleadings, specifically addresses the time allowed for responses to motions or other pleadings. However, the Commission has determined that 4 CSR 240-2.050 should be clarified by deleting the word "order" in the section (1). Section (2) shall be clarified by adding the phrase "the day the order was issued shall not be included, and" after the words "In computing the effective date of any order of the commission." In addition, the rule is more properly titled "Computation of Time" and not "Computation of Effective Dates," so the title has been revised. Therefore, the Commission has amended the rule but not in the manner requested by the comments.

COMMENT: One commenter opposes the deletion of the phrase "except after the effective date of a tariff" in subsection (3)(B). Once a tariff is effective, it becomes law and cannot be modified without restarting the tariff process. The Public Service

Commission cannot do by rule what the general law does not permit it to do.

RESPONSE: The Commission believes the deleted phrase is unnecessary. No changes were made to the rule as a result of this comment.

COMMENT: One comment contends that the Commission should expand the grounds for permitting late action to include both excusable neglect and *force majeure* in subsection (3)(B). If uncontrollable events preclude action, the failure to meet the deadline really does not qualify as neglect.

RESPONSE: The Commission notes that both the proposed rule and the current rule refer to "excusable neglect." The Commission determines that "excusable neglect" is an appropriate standard and declines to make the suggested change.

4 CSR 240-2.050 Computation of Time

(1) In computing any period of time prescribed or allowed by the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) In computing the effective date of any order of the commission, the day the order was issued shall not be included, and the order is considered effective at 12:01 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.060 Applications is rescinded.

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule and are summarized there.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2321–2324). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received which stated that Section (1) required too much information and that the rule should only apply to Subsections (1)(A), (I), and (J).

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment suggested that the language in Subsection (1)(A) which requires a "statement of the nature of each applicant" was too vague and suggested using the phrase "a brief description of the legal organization of each applicant."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment suggested that the Commission does not have the authority to require an applicant to have and to provide an electronic mail address. The comment also stated that "In the case of a corporate applicant, it may have thousands of electronic mail addresses, or it may have none."

RESPONSE: The Commission has considered this comment and has made no change in response thereto. The Commission adds that if an applicant has no electronic mail address, it is not required to obtain one. The Commission also adds that an applicant with many electronic mail addresses need only choose one, similar to choosing one street address for an applicant with offices located in many different locations.

COMMENT: One comment stated that Subsection (1)(F) requires a political subdivision to include a cite to or a copy of the statutory provision(s) or other authority(ies) under which it operates. The comment stated that this provision might cause applicants to file a lot of citations or a lot of pages of photocopied materials.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: There were several comments on Subsection (1)(K). Most of the comments described the difficulty with which applicants would have in keeping track of judgements against such applicants. Several comments suggested deleting the subsection altogether or, if the subsection were not deleted, then restricting its application time-wise.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and has made a change in response thereto. The Commission also notes that the subsection merely calls for a statement concerning the existence of such a case or cases, not a list of the cases.

COMMENT: One comment on Subsection (1)(L) stated that the Commission should already know if any applicant has any overdue annual reports or assessment fees, thus this subsection is unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made no change in response thereto. However, the Commission has removed the word "verified" from the subsection since the statement concerning reports or fees must be made in an application which is verified; the use of the word in the subsection is redundant.

COMMENT: One comment suggested that the requirement in Subsection (8)(E) for an applicant to include a list of all documents generated relative to the analysis of a merger and acquisition should be deleted since it could result in very large applications.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment suggested that the distinction between "variance" and "waiver" should be made in Subsection (14). Another comment stated that the Commission had no authority to waive any statutory provisions.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

COMMENT: One comment suggested that in Subsection (15)(A), the phrase "description of the structure" should be changed to "brief description of the type of structure." The comment also suggested that the phrase "if any" should be added following the phrase "the street address of the structure."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and has made a change in response thereto.

COMMENT: Two comments suggested that Subsection (16) should be expanded to show that the Commission can only recognize name changes, not approve them.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

NOTE AND EXPLANATION OF OTHER CHANGES: A typographical error has been corrected in sections (3) and (4).

4 CSR 240-2.060 Applications

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to the statutory provision and a specific reference to any other authority, if any, under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)–(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

(L) A statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(3) Competitive telecommunications companies are exempt from subsections (7)(A)–(E), (8)(A)–(E), and (11)(C)–(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

(4) In addition to the requirements of section (1), applications for a certificate of convenience and necessity by a gas, electric, water, sewer or heating company shall include the following information:

(8) In addition to the requirements of section (1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) For gas, electrical, water, sewer and telecommunications companies, a statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(15) In addition to the requirements of section (1), applications for commission authority for a change of electrical suppliers shall include:

(A) A description of the type of structure where the change of supplier is sought, and the street address, if any, of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.065 Tariff Filings Which Create Cases is rescinded.

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule and are summarized there.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.065 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324-2325). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: There were several comments on Subsection (1). One comment stated that the proposed rule would add a burden to a company, i.e., making the same people who are involved in the preparation of the filing also responsible for the filing of the direct testimony. Other comments stated that the term "general rate increase" needs to be defined. Some comments stated that if the Commission wants an accelerated process in general rate increase cases that it should benefit all parties, e.g., by not suspending the tariffs for the full statutory period.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered all these comments. One change was made in response thereto.

COMMENT: One comment on Subsection (2) stated that the phrase, "Except when the Commission orders the filing of a tariff . . ." should be added at the beginning of that Subsection to make it clearer that it does not apply to compliance tariff filing.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment on Subsection (2) opposed deleting the "good cause" part of the expedited portion of the former rule.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment on Subsection (3) stated that the requirement of attaching a copy of the subject tariff could be burdensome and unnecessary.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

COMMENT: One comment on Subsection (5) stated that the rule should provide that the copy should be served upon the Office of the Public Counsel pursuant to Section 386.710.2 RSMo.

RESPONSE: The Commission has considered this comment and has made no change in response thereto.

4 CSR 240-2.065 Tariff Filings Which Create Cases

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.070 Complaints is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.070 Complaints is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325–2326). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received two written comments to section (1) and one written comment each to sections (3), (5), (6) and (9). In addition, the Commission received one written comment not related to a particular section of the rule.

COMMENT: One comment in opposition of part of section (1) was received. The commenter stated that the Commission's proposal to allow the Commission Staff through its general counsel to file a complaint with the Commission would be an attempt to extend or modify a statute by rule which is specifically prohibited in the case of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The commenter states that the parties who are authorized to file a complaint before the Commission are listed in section 386.390, RSMo 1994, which does not include the Commission Staff. One comment in support of this part of section (1) was also received. RESPONSE: The Commission disagrees with the commenter's interpretation and applicability of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The Commission has authority under section 386.390, RSMo, to make a complaint and the authority under section 386.240, RSMo, to delegate that authority to the Commission Staff. The Commission finds that the rule is appropriate as proposed and no changes are necessary.

COMMENT: One comment was received which suggested that the first sentence of Section 2.070(3) should read as follows: If a complainant does not choose to pursue the informal complaint process, or if the complainant is not satisfied with the outcome of the informal complaint process, a formal complaint may be filed.

RESPONSE: Section (1) of the proposed rule clearly states that the complainant "has the option to file either an informal or a formal complaint." Therefore, the Commission finds that no changes are needed to this rule as a result of this comment.

COMMENT: One commenter proposed the following additional language be added to section (5): "The Commission secretary shall make available complaint forms and distribute the forms upon request to assist and simplify the filing of complaints."

RESPONSE: The Commission makes its complaint forms available to the general public upon request. The Commission will be revising its procedures in the near future to allow for electronic filing of some documents. Electronic filing may require that the Commission's forms be updated into a format which is compatible with its new system. Therefore, the Commission did not include these forms in this rule as they would have been cumbersome and would not easily have been revised or updated. No changes were made to this rule as a result of this comment.

COMMENT: One commenter filed a comment in support of the language of section (6) which requires notice before dismissing a complaint. The commenter supports this notice requirement because this allows the complainant an opportunity to present arguments as to why the complaint should not be dismissed.

RESPONSE: The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment expressed support of section (9) which provides procedures for default and for setting aside the default. The commenter's remarks indicated that this would allow a complaint to proceed in a timely fashion even if a utility chooses to ignore the complaint or otherwise fails to respond.

RESPONSE: The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment was received which recommended that the Commission adopt additional rules to provide for an expedited complaint resolution.

RESPONSE: The Commission has procedural rules that provide for motions for expedited treatment. Furthermore, the Commission finds that these suggested changes are very extensive and would amount to an entire new rule being promulgated without the benefit of public notice and comment. The Commission has procedures set out under 4 CSR 240-2.180(3) for parties to submit a petition for the promulgation of a new rule. Therefore, the Commission has determined that no changes will be made as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.075 Intervention is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2326). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
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**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.075 Intervention is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2326–2327). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received regarding each of sections (2), (5) and (6). Two written comments were received regarding section (4).

COMMENT: A comment was received which proposed that a new subsection be added, or subsection (2) be amended to allow persons who request intervention immediate status as a party pending a ruling by the presiding officer. The commenter proposed the following new language: Rights of persons with pending motions to intervene. Persons who have filed motions to intervene shall have all the rights and obligations of a party pending the presiding officer's ruling on the motion to intervene.

RESPONSE: The Commission finds that no changes are necessary as a result of the comment. Intervention is not always a matter of right and therefore, the potential intervenors should not be given rights and burdens should not be placed on the parties to the case, until a determination regarding the request for intervention has been made. There are also provisions within the Commission's procedural rules for requests for expedited treatment, if a potential intervenor seeks expedited consideration.

COMMENT: One commenter suggests that in section (4) the phrase "The commission may on application permit any person to intervene" be changed to "The commission shall. . ." The commenter argues that if the required showing is made under subsection (4), that the intervenor should be granted intervention as a matter of right.

RESPONSE: Intervention is not always a matter of right, but is sometimes a discretionary function of the Commission. Therefore, the Commission finds that no changes are necessary to this rule as a result of the comment.

COMMENT: One comment was received in opposition to section (4). The commenter disagrees with requiring the applicant to show at the very early stages of the case that it may be adversely affected by a final order. Sprint states that this may preclude the participation of many parties which have an interest or which will have an interest as the case progresses because it is often not known when notice is first provided of the case precisely what issues will be addressed.

RESPONSE: The rule as proposed does not require that a potential intervenor show that it will be adversely affected by the final order of the Commission. The proposed rule requires only a showing that the potential intervenor "may be adversely affected." Therefore, the Commission determines that no changes to this rule are needed as a result of this comment.

COMMENT: One commenter suggested that section (5) should be amended to provide criteria for determining when a late intervention should be granted.

RESPONSE: The Commission has considered the criteria for determining when a late intervention should be granted as suggested in the comment. However, the Commission finds that the standard of "good cause" is sufficient. Therefore the Commission finds that no changes are needed to this rule as a result of this comment.

COMMENT: One written comment suggested that "the Commission adopt a[n] *amicus curiae* procedure like in the Missouri Rules of Civil Procedure 84.05(f)(2). The rule should provide for an application for *amicus curiae* to set out the reasons why the PSC should grant the party relief to file a brief. The application should include the nature of the party's interest and the facts or questions of law the party proposes to address." The commenter also stated that it supports the replacement of the "participant without intervention" as provided in the current rule with an "*amicus curiae*" as provided in the proposed rule.

RESPONSE: In the Commission's experience, the numbers of persons making application to participate without intervention have been relatively few. The Commission anticipates that there will be relatively few parties asking to enter cases as an *amicus curiae*, as well. Therefore, the Commission finds that the procedure as proposed in section (6) will provide sufficient information and the more strict standards of Civil Rule 84.05(f)(2) are not necessary. No changes to this rule were made as a result of this comment.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.080 Pleadings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2327). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2327-2328). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment each was received to sections (2), (6), (7), (10), two written comments each to sections (8) and (18), eight written comments to section (16), and three written comments to section (17) were received. One commenter suggested a new section (21). The Commission also made one change to section (5) upon its own review.

COMMENT: One commenter stated that section (2) should not require the signing of a pleading or brief to provide its electronic mail address because none of the statutes governing the means of communication by the Commission authorizes it.

RESPONSE: The Commission has the statutory authority to adopt procedural rules. The Commission finds that its ability to communicate quickly and efficiently with counsel for parties before it will be enhanced by having an electronic mail address for counsel if one exists. The Commission notes that in the same document this commenter applauds the Commission's attempts to reduce paper filings and recommends the Commission utilize electronic filing as much as possible and recommends that service by facsimile be added to the methods of service on parties' attorneys. The Commission fails to see why the commenter would not also want the Commission to communicate with the parties or their attorneys in the most expedient manner possible. Therefore, the Commission finds that no changes are necessary to this rule as a result of this comment.

COMMENT: One comment was received supporting the restatement of general ethical responsibilities of counsel in section (7).

RESPONSE: No changes to this rule are necessary as a result of this comment.

COMMENT: Two commenters applauded the Commission for reducing its filing requirements from 14 copies to 8 copies. One of those commenters encouraged the Commission to reduce paper filings even more by utilizing electronic filing as much as possible.

RESPONSE: The Commission expects to have ready a system by which electronic filings can be possible in the near future. When that system is ready, it will be necessary for the Commission to revise its procedural rules to accommodate that method of filing. However, until the Commission has the systems and technology in place, the Commission has reduced the number of paper copies required. The Commission finds that no changes to this rule are necessary as a result of this comment.

COMMENT: One comment in support of the Commission's reduction in the number of copies needed for filing a complaint was received.

RESPONSE: No changes to this rule are necessary as a result of this comment.

EXPLANATION OF OTHER CHANGES: Upon review of the proposed rule, the Commission finds that the word "stricken" is incorrect and should be replaced by the word "rejected" in section (5). In this context, "stricken" would incorrectly imply that the pleading or brief was accepted by the Commission to be filed and then removed from the record. The term "rejected" would correctly mean that the pleading or brief was never accepted for filing with the Commission.

COMMENT: One comment was received suggesting that for grammatical reasons, the phrase "By signing a pleading," should be added to the beginning of section (6).

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the comment and for clarity and consistency the Commission will make the change as recommended.

COMMENT: Seven comments were received objecting to the shortening of the time to respond from ten days to seven days in proposed section (16) and one comment supported the shortened response time with an amendment. The commenters cited holidays and weekends, postal service delays, and the ability of parties to request a shortened response time where necessary under other rules of the Commission, as reasons for objecting to this proposed rule. Two commenters suggested that the response period in section (16) could be seven days if the Commission allowed an additional three days where service of the pleading was made by mail. Two commenters also suggested that requiring or permitting service by facsimile would help to shorten the response time.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments and has determined that the time period for filing a response should be ten days. However, the Commission notes that by operation of law, when the tariff effective date or operation of law date occurs sooner than ten days from the filing of the pleading, the responsive party may not have a full ten days available to respond before the Commission takes action. Therefore, the Commission finds that section (16) should be amended.

COMMENT: Two identical comments were received which stated that the requirement of subsection (17)(C) is inappropriate. The commenter stated that the information was not relevant to the issue of whether expedited treatment should be granted. The commenter stated that the information could only be used to assign blame that is not an appropriate consideration in making a determination of whether expedited treatment is in the public interest.

RESPONSE: Proposed section (17) of this rule, sets up a procedure for requesting expedited consideration of a case. The Commission does not intend to use subsection (C) as a means of punishing parties who might suffer harm, or where failure to expedite might cause harm to the general public, because the party has caused a delay in requesting expedited treatment. However, the Commission also does not intend to reward bad actors or take extraordinary measures in cases where the requesting party has orchestrated, by intent or neglect, its own emergency. Therefore, the Commission finds that no change to this rule is needed as a result of this comment.

COMMENT: One commenter suggested that section (17) regarding motions for expedited treatment should also include a requirement for disclosure of any negative effect the request may have on the company's customers or the public.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. Knowing the negative effect, if any, on the public of expediting the request is important to the Commission. Therefore, the Commission will amend this rule to include this recommendation.

COMMENT: One commenter stated that proposed subsection (17)(C) should be amended by changing the words "An attestation by the moving party" to "A statement in the pleading by the moving party or counsel."

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed this subsection and agrees that an amendment should be made. When read in conjunction with the opening phrases of section (17) and with the Commission rule requiring pleadings to be verified, the Commission determines that the only revision necessary to this rule is to strike the words "An attestation by the moving party" because they are unnecessary.

COMMENT: Two commenters suggested that section (18) be amended to allow for service by facsimile. One commenter also suggested that service be allowed by electronic mail.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees that electronic communication should be utilized as much as possible and where practicable. Several comments were received indicating a desire for service by facsimile. The Commission will amend this rule to include service by facsimile. The Commission also believes that service by electronic mail where possible is an efficient manner of obtaining service. Therefore, the Commission will also amend this rule to allow for service by electronic mail.

COMMENT: One commenter suggested that a section for amending pleadings be added.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter that a procedure for amending pleadings should be added. The Commission finds it reasonable to include a procedure similar to the one found in Missouri Supreme Court Rule 55.33. Therefore, the Commission will amend this rule to include a procedure for amending pleadings as new section (21).

COMMENT: Two comments were received suggesting that the Commission's choice to propose a new rule rather than amend the old rule made evaluation of the rule too difficult. The commenter stated that if the Commission had used a method of deletions and additions "the cost and efficiency of the presentation would be more than outweighed by the cost and efficiency of the analyses by affected parties."

RESPONSE: The comment was not addressed to the specific provisions of the rule, but rather to the method by which the Commission chose to complete its rulemaking. The Commission considered the commenter's method before proposing this rule. However, because of the numerous changes being made, the Commission determined that it would be less confusing for the general public to see the rule in its entirety when published in the *Missouri Register*, than if a series of deletions and additions was published. Therefore, the Commission determines that no changes are necessary as a result of this comment. The Commission will consider these comments in future rulemaking proceedings.

4 CSR 240-2.080 Pleadings, Filing, and Service

(5) An unsigned pleading or brief shall be rejected.

(6) By signing a pleading, the signer represents that he or she is authorized to so act, and that the signer is a licensed attorney-at-law in good standing in Missouri or has complied with the rules below concerning any attorney who is not a Missouri attorney or is appearing on his or her own behalf.

(16) Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

(17) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

(A) The date by which the party desires the commission to act;

(B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party's customers or the general public, if the commission acts by the date desired by the party; and

(C) That the pleading was filed as soon as it could have been or an explanation why it was not.

(18) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

1. Delivering it to the party's attorney;
2. Leaving it at the office of the party's attorney with a secretary, clerk or attorney associated with or employed by the attorney served;

3. Mailing it to the last known address of the party's attorney; or

4. Facsimile transmission to the current facsimile machine of the party's attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

1. Delivering it to the party; or

2. Mailing it to the party's last known address.

(C) Completion of Service.

1. Service by mail is complete upon mailing.

2. Service by facsimile transmission is complete upon actual receipt.

3. Service by electronic mail is complete upon actual receipt.

(21) Any pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.085 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2328-2329). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received from two people.

COMMENT: One comment was received which indicated that proposed section (2) creates a problem when used in conjunction with proposed 4 CSR 240-2.065. Section (1) of proposed rule 2.065 requires that a public utility filing a general rate case must file its direct testimony along with the proposed tariff. The commenter explains that when the tariff is filed, there will be no protective order in place to protect highly confidential or proprietary information included in that direct testimony. Thus the commenter suggests that the Commission allow some time between when the direct testimony is due and the tariff filing so that a motion for a protective order can be filed with the tariff and issued before the testimony is due. The commenter also states that this will conform with the requirement in section (15) of proposed 4 CSR 240-2.130 which requires a protective order to be obtained before the filing of documentary evidence.

RESPONSE AND EXPLANATION OF CHANGE: The commenter points out a conflict in the procedural rules as originally proposed. The Commission will revise section (2) of this rule to include the testimony required in section (1) of proposed rule 4 CSR 240-2.065. The Commission is also revising section (15) of proposed rule 4 CSR 240-2.130 to reflect this change.

COMMENT: Two commenters recommended that the highly confidential and proprietary copies of pleadings in proposed section (2) should be served on the attorneys of record rather than the parties in order to protect the confidentiality of those pleadings.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. The proposed rule inadvertently required service on the parties rather than on the parties' attorneys. The Commission will amend section (2) as recommended.

COMMENT: One general comment in support of this rule was received. The commenter indicated that the Commission should move away from blanket protective orders and tailor each protective order to the specific information sought to be protected and justified in the motion for protective order.

RESPONSE: No changes to this rule are necessary as a result of this comment.

COMMENT: One general comment was received recommending that the Commission adopt the text of its standard protective order in the body of this rule. The commenter stated that "[i]t is a waste of natural resources for the Commission to issue a separate, multi-page protective order in each instance when the text of the protective order has not changed in many years." The commenter states that the Commission can save thousands of pieces of paper by issuing a single page order saying that the protective order as set out in the rule is in effect. The commenter states that the Commission would also be able to issue non-standard protective orders when necessary.

RESPONSE: The Commission has reviewed the "standard" protective order to which the commenter refers. Contrary to the statement of the commenter, the Commission's "standard" protective order has changed in recent years. The Commission has determined that additional revisions may be needed as well. The Commission finds that inclusion of the text of that "standard" order should only be done after careful consideration and with a chance for comments on the specific language included. Furthermore, inclusion of the protective order language would be cumbersome in this rule. The Commission's current practice of issuing a protective order on a case-by-case basis remains the appropriate method for establishing protective orders. Therefore, the Commission finds that no changes to this rule are needed as a result of this comment.

4 CSR 240-2.085 Protective Orders

(2) Pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission; except that if the pleading which initiates a case or testimony accompanying a pleading initiating a case contains highly confidential or proprietary information, then the party shall file one (1) original, and eight (8) copies of the public version; and one (1) original, and eight (8) copies of the complete version containing the information to be protected, together with a Motion for Protective Order. A highly confidential or proprietary copy of the pleadings shall be served on the attorneys of record, including general counsel and the public counsel.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.090 Discovery and Prehearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2329). No changes were made in the proposed rescis-

sion, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.090 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2329-2330). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received regarding sections (1), (2), (5), (7) and (8).

COMMENT: One comment was received objecting to proposed section (2). The commenter stated that data requests should not be required to be signed by a person who could attest to the truthfulness and correctness of the answers. The commenter explains that parties to proceedings before the Commission have three basic methods of obtaining information through discovery. Two of these methods are identical to those used in circuit courts as provided by Rule 57, Interrogatories and Depositions, under the Rules of Civil Procedure. Both interrogatories and depositions are provided under oath. The third method, data requests, are provided for in the current and proposed rules of the Commission. This method has not been required to be submitted under oath. The commenter suggests that requiring the data requests to be signed as proposed, will not insure greater accuracy in the answers provided in the data requests, but will only slow down the process by requiring the party answering the request to track down a person who will be able to swear to the statement's truthfulness. The commenter also does not believe this is necessary because under section 386.560, *Revised Statutes of Missouri*, it is a criminal act to make a false statement required to be made to the Public Service Commission. The commenter also disagrees with the proposal in section (2) that requires the answering party to promptly notify the requesting party of any changes to the answers previously given to a data request. The commenter states that this requirement is too burdensome and is not required due to the process of prefiled written testimony used in most Commission proceedings.

RESPONSE AND EXPLANATION OF CHANGE: The purpose of the discovery process is to provide accurate information to the requesting party. The Commission utilizes the discovery methods of interrogatories and depositions as found in the Civil Rules of Procedure. In addition, the Commission's current rules and the proposed rule, provides for an additional method of discovery known as data requests. Data requests are meant to provide information to the requesting party in a more expedited fashion than interrogatories and depositions. However, data requests are not intended to provide less accurate information. After reviewing the comments and analyzing the rule as proposed, the Commission determines that a change to proposed section (1) is necessary to clarify the methods of discovery. The Commission determines that a change to proposed section (2) is necessary to clarify that the

person signing the data requests not only can, but will, attest to the truthfulness of the reply if necessary. The Commission also determines upon review of the rule that the language referring to sanctions for misconduct involving data requests should be clarified. Therefore, the Commission will amend section (1) and (2) of this rule.

COMMENT: One comment was received suggesting that proposed section (5) be amended to include a reference to being excused for good cause, identical to the language for hearings in proposed rule 2.110(2)(B).

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the suggested amendment and finds that it is reasonable to amend section (5) so that it is consistent with other rule proposed by the Commission.

COMMENT: One comment was received suggesting that proposed section (7) specify that settlement offers are also privileged.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that settlement offers should be added to the items which are privileged during prehearing conferences. Therefore, the Commission will amend section (7).

COMMENT: One commenter suggested that proposed section (8) be amended by adding a sentence stating, "No party shall file a motion to compel or motion for sanctions without first making a good faith effort to resolve the dispute informally." A similar comment was received from another commenter suggesting that section (8) of the rule be clarified to make it clear that the Commission is requiring a moving party to make informal good faith attempts to resolve discovery disputes prior to seeking a Commission order. The commenter points out that this would be similar to the "golden rule" followed by many circuit courts.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments to section (8) and determines that it would be appropriate for parties to Commission cases to follow a "golden rule" regarding discovery motions, similar to that followed by parties to cases in the United States District Court, Western District of Missouri, Rule 37.1 Discovery Motions. Therefore, the Commission will revise section (8) to include a "golden rule" for discovery motions.

4 CSR 240-2.090 Discovery and Prehearings

(1) Discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.

(2) Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission. If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer. Upon agreement by the parties or for good cause shown, the time limits may be modified. As used in this rule, the term data request shall mean an informal written request for documents or information which may be transmitted directly between agents or employees of the commission, public counsel or other parties. Answers to data requests need not be under oath or be in any particular format, but shall be signed by a person who is able to attest to the truthfulness and correctness of the answers. Sanctions for failure to answer data

requests may include any of those provided for abuse of the discovery process in section (1) of this rule. The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

(5) Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(7) Facts disclosed in the course of a prehearing conference and settlement offers are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence.

(8) Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.100 Subpoenas is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received suggesting changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested additional time should be allowed to file objections to a subpoena.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has changed the time allowed to file an objection from 7 days to 10 days.

COMMENT: One commenter suggested that the proposed rule should apprise a party of the manner in which a subpoena may be enforced.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has added a section to the rule.

COMMENT: One commenter suggested that the process to obtain a subpoena be streamlined by providing signed blank subpoenas to attorneys in order to accommodate "fast track" procedures presented in many commission proceedings.

RESPONSE: This suggested change is unnecessary. The proposed rule provides for signature by a law judge pursuant to a delegation of authority. Previously only the secretary of the commission or a commissioner signed subpoenas. This change should shorten the processing time to obtain the issuance of a subpoena.

4 CSR 240-2.100 Subpoenas

(3) Objections to a subpoena or subpoena duces tecum or motions to quash a subpoena or subpoena duces tecum shall be made within ten (10) days from the date the subpoena or subpoena duces tecum is served.

(5) If there is a failure to comply with a subpoena or a subpoena duces tecum after objections or a motion to quash have been determined by the commission, the commission by its counsel or the party seeking enforcement may apply to a judge of the circuit court of the county in which—the hearing has been held, is being held, or is scheduled to be held, or where the witness resides or may be found—for an order enforcing the subpoena or subpoena duces tecum.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.110 Hearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2330-2331). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2331). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Six sets of comments were received suggesting changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested additional time should be allowed to file corrections or objections to corrections for a transcript.

RESPONSE AND EXPLANATION OF CHANGE: The commission accepts this suggestion and has changed the time allowed from 7 days to 10 days.

COMMENT: Two commenters suggested that requests for hearing should be made at least 15 days prior to the requested date and that any shorter period should be supported in the request.

RESPONSE: This suggested change is unnecessary. The commission will act according to applicable law and circumstances in setting and noticing hearings or responding to requests for hearing.

COMMENT: One commenter suggested that specific requirements should be stated in the rule for the timing of notices of hearing, method of service, content of notices; timing, method and content of customer notices; and, the method, manner and content of general public notices for hearings.

RESPONSE: This suggested change is unnecessary. The commission will act according to applicable law and circumstances in noticing hearings. Any party may request additional notice requirements in a particular matter.

COMMENT: Four commenters suggested that section (4) of the proposed rule should state a standard that a presiding officer should follow when limiting the number of witnesses, exhibits, or the time for testimony. The proposed standard would be "to avoid irrelevant or cumulative evidence." One of the commenters viewed this provision as providing "carte blanche" to the presiding officer and as a threat to due process. One commenter suggested that the rule should provide for offers of proof and for referral to the commission.

RESPONSE AND EXPLANATION OF CHANGE: The commission, its law judges, staff attorneys and represented parties are aware of due process requirements and the need for full and fair hearings. Evidence to which there is a limitation or objection posed may be preserved unless it is wholly irrelevant, repetitious, privileged or unduly long. The commission's rule on evidence addresses the concerns presented by these commenters. In

response to these comments the commission has added a reference to the application of evidentiary standards.

COMMENT: One commenter suggested an addition to the rule to address ex parte notices to ratepayers and consideration of written correspondence from ratepayers related to pending cases.

RESPONSE: A rule change is not necessary to address the form of a commission ex parte notice or letter. The comments concerning the form and content of commission correspondence to ratepayers will be considered when drafting future correspondence. Letters and correspondence from ratepayers regarding pending cases present sensitive issues that are better addressed in particular cases than in these rules.

COMMENT: One commenter suggested an addition to the rule to specify notices and timing, content and method of notices for public hearings.

RESPONSE: This addition to the rule is unnecessary. The commission provides for notice of public hearings as the law and circumstances require.

4 CSR 240-2.110 Hearings

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(4) The presiding officer may limit the number of witnesses, exhibits, or the time for testimony including limitations consistent with the application of the rules of evidence.

(7) Suggested corrections to the transcript of record shall be offered within ten (10) days after the transcript is filed except for good cause shown. The suggestions shall be in writing and shall be served upon the presiding officer and each party. Objections to proposed corrections shall be made in writing within ten (10) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2331-2332). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received. One commenter supported the proposed rule. Two commenters suggested changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: One commenter thought that the time period allowed (7 days) to request a hearing concerning a nonunanimous stipulation and agreement was too long. One commenter thought that the time period allowed (7 days) to request a hearing concerning a nonunanimous stipulation and agreement was too short.

RESPONSE: The time period allowed in the proposed rule is adequate.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.116 Dismissal is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.116 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2332). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three sets of comments were received. One commenter supported the proposed rule. Two commenters suggested changes to the proposed rule. No comments in opposition to the rule were received.

COMMENT: Two commenters suggested similar additional clarifications to section (2) concerning dismissal of cases for a lack of prosecution to provide notice and to provide that cases would not be dismissed that had been submitted for decision, that had a pending hearing date, or that were following an established procedural schedule.

RESPONSE: These changes are not necessary. The circumstances described would not present a situation of a lack of prosecution. The rule itself provides notice to the parties that action on a case must occur.

COMMENT: One commenter suggested that section (4) which addresses a dismissal of a case for good cause should be clarified with respect to section (2) which addresses a dismissal of a case for a failure to prosecute.

RESPONSE AND EXPLANATION OF CHANGE: Failure to prosecute a case is good cause for dismissal. It is not the only basis on which a case might be dismissed. Section (4) recognizes that good cause for dismissal might be found on other basis on a case-by-case basis. However, the commission has added clarifying provisions to the rule at subsection (3) to illustrate circumstances supporting dismissal of a party that might also result in effectively dismissing the case.

4 CSR 240-2.116 Dismissal

(3) A party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, pre-hearing conference, hearing, or mediation session.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.120 Presiding Officers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.120 Presiding Officers is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made to the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received during the comment period.

COMMENT: One comment stated that any party may request a change of the presiding judge in a case once without stating cause and that any subsequent request must be for cause.

RESPONSE: The Commission has considered these comments and no change is necessary.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.125 Procedures for Use of a Presiding Officer in Settlement Negotiations is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.125 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2333–2334). Those subsections with changes are

reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment opposed the proposed wording of section (2)(A), which says that “without prior notice or motion, the commission may order that mediation proceed in a complaint case before any further proceeding in such a case.” The comment suggested that there should be prior notice of the Commission’s intentions to afford the parties basic due process.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and the comment is well taken. While it was not the Commission’s intention to deny any due process, the Commission does believe that this phrase could be misinterpreted. Therefore, the Commission will strike the phrase “Without prior notice or motion,” from Section 2(A) of this rule and begin the sentence with the preposition “The” that followed the conditional phrase.

COMMENT: All the comments received generally supported the concept of alternative dispute resolution as provided for in this rule but two comments suggested that more specific time requirements might be necessary to ensure that the alternative dispute resolution process does not operate to seriously delay the resolution of matters. The suggestion was given that the rule should require a set period for mediation, not to exceed 30 days unless the parties agree to an extension of mediation. In addition, the presiding officer may also determine a shorter duration appropriate.

RESPONSE: The Commission has considered these comments and finds that no change in the rule is necessary. The Commission notes that no rule is necessary to give the Commission authority to terminate the mediation procedure in any case where mediation will not serve the parties or the Commission. If the mediation process is no longer appropriate in a case, any other party or the mediator may seek an order terminating mediation by filing its motion with the Commission for consideration.

COMMENT: One comment suggested that the Commission provide for supervision or setting of applicable time limits during the resolution process at the time the Commission issue the order referring the case to alternative dispute resolution. A similar comment suggested that if the Commission order does not specify the duration of the mediation, then the Commission’s rule should require the presiding officer to specify a period of duration at the outset of the mediation. It is suggested that the rule should provide specifically that any party to the mediation could file a motion with the Commission to terminate the mediation.

RESPONSE: The Commission has considered these comments and finds that no change in the rule is necessary. The Commission notes that no rule is necessary to give the Commission authority to set a period of duration for mediation or other time limitation in its orders directing parties to participate in mediation. If a party wishes to terminate mediation, the party may seek an order terminating mediation by filing its motion with the Commission for consideration. An additional rule is not necessary to give the parties the opportunity to file a motion to terminate mediation.

COMMENT: One comment specifically suggests that the tolling of procedural schedules should not occur unless both parties agree. The comment notes that recognition that the deadline for testimony and hearing is approaching can serve as an incentive for meaningful mediation.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and in reviewing the rule, the Commission has determined that it is not necessary to

automatically toll all other action in a case that has been referred to mediation. The Commission finds that the comments are well taken and finds that the Commission should decide whether the action in a case should be tolled on a case-by-case basis. Therefore, the Commission has modified the proposed rule to permit tolling of all action in a case referred to mediation instead requiring such in every case.

COMMENT: One comment suggested that mediation could be used in more cases than complaint cases, such as tariff filing cases other than general rate cases, where the mediation process would likely prove helpful. However, it was noted that the Commission does not have the authority to alter the statutory time frame for action on tariff filings or to unilaterally extend the “operation of law date.”

RESPONSE: The Commission has considered these comments and finds that no change is necessary to the rule.

COMMENT: It was suggested that the Commission reword proposed section (6) substituting the phrase “failure to appear” for the phrase “failure to participate” because whether a party appears or not is an objective test. It was noted that whether a party participated or not is a subjective test that is difficult to define and apply.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and finds that while this may be a difficult standard to apply, the Commission will apply the provision within reasonable standards of participation in good faith. If the Commission orders the parties to appear and participate in mediation, Commission Rule 4 CSR 240-2.116 would already permit dismissal of a party “from a case for failure to comply with any order issued by the commission.” The Commission does not expect that this provision would be used except in extreme circumstances. Based upon the comments, some modification should be made to the rule for clarification purposes.

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

(2) Mediation.

(A) The commission may order that mediation proceed in a complaint case before any further proceeding in such case.

(5) At any time, upon the request for mediation or upon the issuance of an order requiring mediation, the Commission may order that all other actions on the case cease and all time limitations be tolled pending the completion of mediation process.

(6) Failure to appear and participate in good faith in commission ordered mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.130 Evidence is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999

(24 MoReg 2334). No changes were made to the proposed rescission, so it is not reprinted here.. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.130 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2334-2335). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received suggesting that the Commission clarify Section (16). Section (16) states "All testimony shall be taken under oath." The comment refers to the affidavits which are often attached to prefiled written testimony. If an affidavit is not attached to the prefiled testimony, Section (16)'s requirement may cause difficulty. Requiring all testimony to be given under oath may be a problem because the witnesses who have filed prefiled testimony are not always present, especially when no cross-examination is expected or when the parties have entered into a stipulation which includes the admission of evidence. It is suggested that Section (16) not be applied to prefiled testimony and that Section (16) does not preclude the acceptance of prepared testimony into an evidentiary record, by stipulation, that is not under oath.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and finds that all testimony, oral or written, should be taken under oath. Therefore, the Commission has made changes to Section (6) of this rule to require the attachment of an affidavit in which the witness shall recite the oath or affirmation as to the testimony given in the written document. The Commission also added to Section (6) the requirement that the prefiled testimony cover sheet provide the date the testimony is prepared for clarification purposes.

COMMENT: One comment was received suggesting that the proposed time period of seven days to object to a late-filed exhibit be changed to ten days for the reasons mentioned in other cases commenting on these proposed rules regarding the seven day response period.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered these comments and the Commission finds that the period for filing objection to a late-filed exhibit should be changed to ten (10) calendar days to give parties adequate time to file an objection, if they wish to do so.

COMMENT: One comment received indicated support for the proposed changes which make only minor test changes in the rule. RESPONSE: The Commission has considered these comments and finds that no additional changes are requested.

EXPLANATION OF OTHER CHANGES: The Commission amended Section (15) slightly for clarification purposes to ensure that these rules were consistent.

It was noted that the numerical references to the size of paper in Sections (6) and (10) were published in the Notice of Rulemaking incorrectly omitting the ½ symbol. These sections will be reprinted in the Order of Rulemaking for correction.

4 CSR 240-2.130 Evidence

(6) Prepared testimony shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8 1/2" × 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and it shall be filed in sufficient number of copies as required by order of the commission, observing the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged. Schedules shall bear the word "schedule" and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule. All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No.:	(To be marked by the hearing reporter)
Issue:	(If known at the time of filing)
Witness:	(Full name of witness)
Type of Exhibit:	(Specify whether direct, rebuttal, or other type of exhibit)

Sponsoring Party:
Case No.:
Date Testimony Prepared:

The prepared testimony of each witness shall be filed separately and shall be accompanied by an affidavit providing the witness' oath. Prepared testimony shall be filed on line-numbered pages. Testimony which addresses more than one (1) issue shall contain a table of contents.

(10) Exhibits shall be legible and, unless otherwise authorized by the commission, shall be prepared on standard eight and one-half by eleven inch (8 1/2" × 11")-size paper. The sheets of each exhibit shall be numbered and rate comparisons and other figures shall be set forth in tabular form.

(15) Evidence for which a claim of confidentiality is made shall be filed in conformance with a protective order approved by the commission. Parties shall obtain a protective order prior to filing of documentary evidence, except as permitted otherwise by these rules.

(17) All late filed exhibits shall be submitted by simultaneously providing a copy to all parties, and by submitting an original and eight (8) copies to the presiding officer. Unless otherwise ordered, any objection to the admission of a late filed exhibit must be filed within ten (10) days of the date the exhibit was tendered.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.140 Briefs and Oral Arguments is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received during the comment period.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.140 Briefs and Oral Arguments is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Written comments were received during the comment period.

COMMENT: One comment was received noting that only minor stylistic changes were being made to this rule and therefore, no further changes were suggested.

RESPONSE: The Commission has reviewed this comment and finds that no change to the proposed rule is requested.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.150 Orders of the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.150 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2336–2337). The section with changes is reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No public hearing was held. Written comments were submitted.

COMMENT: A comment was received suggesting that the commission change the time limit in subsection (4) from five days to ten. This would allow parties additional time to file a response to a preliminary order.

RESPONSE AND EXPLANATION OF CHANGE: The provision that has been questioned creates a default requirement that comments in response to a preliminary order be limited to five pages and be filed within five days. The commission is free to vary those limits if it chooses to do so. There is no need to have any such limitations in the rule. The commission does not frequently issue preliminary orders, but it will consider time and page limitations at the time it chooses to issue such an order. The rule has been modified to remove the time and page limitations. No other comments were received.

4 CSR 240-2.150 Decisions of the Commission

(4) The commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. The commission may then issue its order after reviewing the responses of the parties.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.160 Rehearings or Reconsideration is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2337). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.160 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2337-2338). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No public hearing was held. Written comments were submitted.

COMMENT: A comment was received suggesting that the commission does not have the authority to draw a distinction between “applications for rehearing” and “motions for reconsideration.” The comment suggests that the right to rehearing of any decision of the commission is established by statute and the commission does not have the authority to limit a right established by statute.

RESPONSE AND EXPLANATION OF CHANGE: The right to rehearing of an order or decision of the commission is established by Section 386.500, RSMo 1994. The commission cannot, by rule, limit the right to rehearing established by statute. However, the rule is not intended to limit the right to rehearing, but is instead intended to create an additional remedy known as reconsideration, the use of which is limited to procedural and interlocutory orders. The commission on occasion may issue such orders with a short effective date. Therefore, the motion for reconsideration, which the regulation allows to be filed within ten days of the order’s issue date, would be useful to allow these matters to be brought to the attention of the commission without requiring an extended effective date on the order. The rule has been modified to clarify the difference between rehearing and reconsideration.

COMMENT: A comment was received suggesting that the commission add a new section (5) to provide that a motion for rehearing shall be deemed denied if the commission does not rule on it within 90 days of the filing of the motion.

RESPONSE: The commission agrees that motions for rehearing should be ruled upon promptly. However, it is not clear that a denial of rehearing based solely on the passage of 90 days from the filing of the motion would operate to establish the right to review by circuit court set out in Section 386.510, RSMo 1994. For that reason, the Commission will not adopt the suggested section. No other comments were received.

4 CSR 240-2.160 Rehearings and Reconsideration

(1) Applications for rehearing may be filed pursuant to statute.

(2) Motions for reconsideration of procedural and interlocutory orders may be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust, or unreasonable.

(3) The filing of a motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.

(4) The commission may correct its own orders nunc pro tunc.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.170 Forms is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Office of the Public Counsel offered a comment indicating that it does not oppose the rescission.

RESPONSE: The Commission thanks the Office of the Public Counsel for its comment. No other comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 386.310, 386.410, 387.050, 387.160, 387.170, 387.230, 387.240, 387.290, 387.310, 387.320, 387.330, 389.580, 389.710, 389.795, 389.945, 389.992, 389.993, 390.041, 390.126, 390.136, 390.138, 392.200, 392.210, 392.220, 392.240, 392.280, 392.290, 392.330, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994 and Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.180 Rulemaking is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 392.210, 392.240, 392.280,

392.290, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994, and sections 386.250, 386.310, 386.410, 392.200, 392.220 and 392.330, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.180 Rulemaking is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2338-2339). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received one written comment on the substance of the rule.

COMMENT: Sections (6) and (7) imply that there will not be cross-examination during rulemaking hearings. There are Commission statutes which require evidence as to the reasonableness of rules adopted by the Commission. If cross-examination is not allowed in rulemaking proceedings, there can be no competent and substantial evidence upon which to base the Commission's decision. This provision should be modified to allow cross-examination in rulemaking proceedings.

RESPONSE: The Commission finds that the rule does comply with applicable statutes and does not conflict with Commission rules. Therefore, the Commission determines that no changes to the rule are necessary.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-2.200 Small Company Rate Increase Procedure is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2339). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule, and are discussed there.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-2.200 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2339-2340). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Commission received written comments from three sources.

COMMENT: One comment simply noted support of the proposed changes.

RESPONSE: The Commission notes the comment in support of the rule. The comment does not propose any changes and none were made as a result of the comment.

COMMENT: One gas utility which presently has approximately 7,000 customers requested that the Commission modify the rule to permit natural gas utilities with ten thousand (10,000) or fewer customers to utilize the small company rate increase procedure. Under the proposed rule, the small company rate increase procedure would be available to only one natural gas company. Based upon the size of the various natural gas utilities in Missouri, a ten thousand (10,000) customer eligibility requirement would appear to be a more natural breaking point. In order to reduce the cost of processing rate cases, the commenter believes it would be in the public interest to broaden the applicability of the small company rate increase procedure to include small gas utilities with ten thousand (10,000) or fewer customers.

RESPONSE: The Commission has raised the threshold from 1,500 customers (in the current rule) to 3,000 customers. The Commission determines that, at this time, it is not appropriate to further raise the threshold for gas utilities above the level of 3,000 customers. No changes were made to the rule as a result of this comment.

COMMENT: One commenter indicated that it was a "heating company" and a "public utility," as those terms are defined in Section 386.020(20), (42), RSMo Supp. 1998, and is certified by the Commission to provide centralized steam heating services to commercial, nonresidential customers in a limited portion of downtown Kansas City, Missouri. The entity currently serves less than fifty (50) customers. The commenter believes that expanding the threshold availability of the small company rate increase procedure is in the public interest and therefore supports the Commission's proposed expansion of the rule. The small company rate increase procedure not only benefits the companies electing to use the procedure in terms of resources, cost and time, it also significantly reduces the resource, cost and time burden on the Commission in dealing with such companies. More importantly, since most costs of regulation are ultimately passed on to the utilities' customers, the small company rate increase procedure ultimately benefits the customer. In addition, the comment contends that expanding the availability of the proposed rule beyond water, sewer and gas companies to specifically include steam companies is also in the public interest.

RESPONSE: The Commission has reviewed the comment and has chosen not to amend the rule to include steam companies at this time. The small company rate increase procedure was developed for use by small companies. Although the company commenting may have a relatively small number of customers, it is not the small, unsophisticated company that the small company rate increase procedure was designed to benefit. The comment was from a sophisticated company with sufficient revenue to undertake a general rate case if it believes that one is necessary. No changes were made to the rule as a result of this comment.

COMMENT: One comment noted that the proposed rule as currently drafted will conflict with another Commission rule, namely 4 CSR 240-10.070(1), which governs the filing of general rate cases. The company indicated that there are several ways to deal with this conflict between the two rules, but it appears that the most effective and easiest way to address the problem would be to simply add some "notwithstanding" language to the proposed rule. Accordingly, the company suggested that the Commission add the following language to Section (1) when it adopts the final rule: "Notwithstanding any other rule to the contrary, [S]small companies" The company stated that this minor addition, or some similar language, should take care of any conflict between the proposed new rule and the existing general rate case rule and should allow the Commission to proceed with the new small company rate increase procedure rule without the need for further delay.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the comment and finds that the suggested language should be included in the rule. The phrase "Notwithstanding any other rule to the contrary" has been added to the beginning of Section (1), in order to avoid possible conflict between the two rules.

4 CSR 240-2.200 Small Company Rate Increase Procedure

(1) Notwithstanding any other rule to the contrary, small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include water and sewer utilities having eight thousand (8,000) or fewer customers and gas utilities having three thousand (3,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994 and 386.250, 392.200, 392.450 and 392.451, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-32.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2341-2343). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on November 2, 1999. Written comments were submitted.

COMMENT: A comment suggests that the commission require that the bond be issued by a surety authorized to do business in Missouri.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and the suggested change has been incorporated into the rule.

COMMENT: A comment suggests that the basic local telecommunications company be required to maintain a bond for so long as it has any customer prepayments or deposits and suggests that the bond not be waived after three years.

RESPONSE AND EXPLANATION OF CHANGE: The commission acknowledges the concerns expressed in the comment. However, on balance, the commission believes that a basic local telecommunications company that has successfully complied with the surety requirement for three consecutive years has demonstrated sufficient financial stability to justify the possible lifting of the surety requirement. The rule has, however, been changed so that the lifting of the surety requirement after three years is not automatic. The revised rule indicates that the commission may eliminate that requirement but does not mandate that the commission shall do so.

COMMENT: A comment suggests that there is no evidence that a surety-bonding requirement is needed. It suggests that there is no problem that needs to be addressed.

RESPONSE: The commission disagrees with the comment. A witness for the Staff of the Commission testified at the hearing regarding the need for this rule. In addition, the comment filed by Southwestern Bell Telephone Company, which details its experiences with basic local telecommunications companies that have failed in other states, illustrates the need for this rule.

COMMENT: A comment suggests that it is unfair to impose a surety requirement on providers of basic local service while not imposing a similar requirement on providers of interexchange telecommunications services.

RESPONSE: The financial obligations of a company that wants to provide basic local service differ significantly from those that only provide interexchange service. The commission does not believe that it would be appropriate to expand this rule to include interexchange telecommunications providers.

COMMENT: A comment suggests that the surety requirement should be waived if a basic local telecommunications company agrees not to take customer deposits.

RESPONSE: The commission disagrees with the comment. The comment considers only one aspect of the rule. The rule is also designed to ensure that a basic local telecommunications company has the financial resources to successfully provide the services it is seeking to offer. Furthermore, the surety requirement is designed to protect the carriers-of-last-resort that would be obligated to provide transition service to the customers of a basic local telecommunications company that suddenly ceases operation. Neither of these aspects of the rule depends upon whether or not a basic local telecommunications company agrees to take customer deposits.

COMMENT: A comment suggests that a basic local telecommunications company be allowed to meet the surety requirement by posting an irrevocable bank letter of credit or by opening an escrow account, as an alternative to posting a surety bond.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and the rule has been modified to allow for the posting of a letter of credit or the opening of an escrow account.

COMMENT: A witness for the staff of the commission testified at the hearing that the rule was not intended to ensure the payment of the general debt obligations a basic local telecommunications company might owe to other telecommunications providers.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (E) of the rule was modified to remove the provision allowing such claims to be made against the bond. In addition, subsection (D) was modified to remove the requirement that the basic local telecommunications company maintain records of amounts owed to other telecommunications providers. No other comments were received.

4 CSR 240-32.110 Surety Bonding Requirements for Basic Local Telecommunications Companies

(1) To ensure the protection of the basic local telecommunications company end-users and other telecommunications providers, any basic local telecommunications company with less than a two hundred fifty thousand dollars (\$250,000) net book value in telephone plant and/or telephone facilities located in Missouri shall maintain a third-party surety bond issued by a surety authorized to do business in Missouri, an irrevocable bank letter of credit issued by a bank or other financial institution doing business in Missouri, an escrow account at a bank or other financial institution in Missouri, or other mechanism as may be approved by the commission.

(A) The bond, letter of credit, or escrow account shall be in the amount of one hundred thousand dollars (\$100,000), and shall be payable to the Missouri Public Service Commission. Such bond, letter of credit, or escrow account shall be maintained for the benefit of the basic local telecommunications company's end-user customers who have prepaid for services from the basic local telecommunications company or who have given a deposit for services to the basic local telecommunications company. Such bond, letter of credit, or escrow account shall also be maintained for the benefit of any telecommunications company serving as a carrier-of-last-resort that is required to provide transition services to a basic local telecommunications company's end-user customers in the event that the basic local telecommunications company ceases to provide basic local telecommunications services to those end-user customers for any reason other than cause as provided for in its approved tariffs. The basic local telecommunications company shall submit proof that it has complied with this requirement, or that it is exempt. Such proof shall be contained in an application to provide basic local telecommunications services or on a form, provided by the commission, to be filed annually.

(B) The bond, letter of credit, or escrow account shall be maintained as long as the basic local telecommunications company is furnishing basic local telecommunications service in the state of Missouri pursuant to this chapter unless modified or released pursuant to commission order.

(C) The bond shall provide that the issuer of the bond shall notify the commission when the bond is canceled or is otherwise terminated prematurely. The bank or other financial institution that issues a letter of credit or holds an escrow account shall notify the commission when the letter of credit is canceled or the escrow account is closed.

(D) The basic local telecommunications company shall maintain records that identify by customer name, address and telephone number the dollar amount of a customer's prepaid basic local telecommunications services and any held deposits. Such records shall be made available to the commission, upon request.

(E) Claims against the bond, letter of credit, or escrow account shall be paid in the following order: first, claims from end-user customers for return of deposits and for claims for prepaid basic local telecommunications services; second, claims from carriers-of-last-resort for costs incurred by the carrier-of-last-resort for providing end-users with uninterrupted basic local telecommunications service should the basic local telecommunications company cease providing that service for any reason other than cause as provided for in its approved tariffs.

(2) Upon application to the commission, the surety requirement mandated under section (1) may be waived if the basic local

telecommunications company successfully complies with the surety requirement for a period of three (3) consecutive years.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994 and 386.250, 392.200, 392.450 and 392.451, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-32.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2344-2346). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on November 4, 1999. Written comments were submitted.

COMMENT: Written comments, as well as testimony at the hearing, strongly urged the commission to limit application of this rule to companies that are reselling the services of a carrier-of-last-resort. The comments pointed out that companies that are providing services through unbundled network elements or through their own facilities are less likely to suddenly go out of business and thus are less likely to trigger the need for a snap-back procedure. The comments also pointed out many technical and legal barriers to imposing the proposed snap-back procedures when service is provided through unbundled network elements or separate facilities.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments. The rule has been modified so that it will apply only to resellers of services. It will not apply to the provision of service to end-user customers through unbundled network elements or through separate facilities. Section (5) of the proposed rule, which applied only to facilities based providers has been eliminated in its entirety.

COMMENT: The staff of the Public Service Commission suggested that a provision be added to account for a situation where there may be more than one carrier-of-last-resort in a given service area.

RESPONSE AND EXPLANATION OF CHANGE: The concerns expressed by the staff are addressed in new section (4) that provides that if there is more than one carrier-of-last-resort in a service area, the customers of the company that has ceased operation will be transferred to the carrier-of-last-resort whose services are being resold.

COMMENT: One comment suggests that the rule provide that no company may cease serving customers until the commission has approved its plan to abandon service.

RESPONSE: The comment seemingly would have the commission expand the reach of Section 392.460, RSMo 1994 to include competitive local exchange companies. The commission has neither the power, nor the inclination to do so.

COMMENT: One comment suggests that the carrier-of-last-resort should be required to provide at least transitional service to all customers of the company that is ceasing to provide service. The comment asks that no exception be made for when the carrier-of-last-

resort's tariff would not require service to that customer. Another comment takes the opposite position and suggests that the rule should clearly indicate that the carrier-of-last-resort should not be required to provide even interim service to a customer that it would not otherwise serve.

RESPONSE AND EXPLANATION OF CHANGE: The exception in question would allow the carrier-of-last-resort to not provide transition service to customers whom the carrier-of-last-resort would not serve under its own tariffs, most often because of unpaid bills. The purpose of this regulation is to ensure that Missouri's phone customers do not suddenly lose basic local phone service because of the failure of their basic local phone service provider. In order to fulfill that purpose, the carrier-of-last-resort must be required to provide transitional services to all of the customers who would otherwise suddenly lose service. This requirement may impose some additional costs on the carrier-of-last-resort because of unpaid bills. However, those additional costs should not be unduly burdensome. A witness who appeared at the hearing on behalf of Southwestern Bell Telephone Company testified that Southwestern Bell has taken back customers of failed basic local providers in other states. The witness indicated that Southwestern Bell will take back all customers for a transition period, even if those customers owe money to Southwestern Bell. Section (3) has been modified to specifically require the carrier-of-last-resort to provide transitional service to all customers of the company that ceases service.

COMMENT: One comment suggests that if the customer has not chosen a new carrier at the end of the thirty-day interim period, the carrier-of-last-resort be required to continue to provide service to the customer.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with the comment. Requiring the carrier-of-last-resort to continue to provide service to a customer after the end of the interim period would be unfair to the carrier-of-last-resort if it does wish to provide services to that customer if, for example, that customer is a poor payment risk. Paradoxically, under other circumstances, it might be unfair to the carrier-of-last-resort's competitors to allow the carrier-of-last-resort to inherit the good customers of the company that ceases providing service unless those customers affirmatively choose to engage the services of the carrier-of-last-resort. A provision has been added to section (3) to clarify that the carrier-of-last-resort is under no obligation to provide service to a customer beyond the thirty-day interim period.

COMMENT: One comment suggests that if the carrier-of-last-resort selects an intraLATA and/or interLATA carrier for an interim customer, the carrier-of-last-resort be required to notify the customer of its right to make a PIC change without charge to the customer's preferred carrier.

RESPONSE: The commission will decline to impose this additional cost on the carrier-of-last-resort.

COMMENT: One comment suggests that the rule should provide that the customer shall not be charged any installation or service fee for the interim transition back to the carrier-of-last-resort. The comment suggests that the carrier-of-last-resort should bill those costs to the company that is ceasing to provide service and thereby necessitating the snap-back. Another comment suggests that the carrier-of-last-resort should not be held responsible for the cost of transitioning the customer and that the rule should explicitly state that the customer shall be responsible for all charges relating to the snap-back procedure.

RESPONSE: The carrier-of-last-resort and the customer are both innocent victims in a snap-back situation. There is no reason to impose the cost of the snap-back procedure on the carrier-of-last-resort. When a customer chooses to accept the benefits of obtaining basic local phone service from a competitive company, they

must also accept the responsibility of considering the financial stability of that competitive company. If the company with which they choose to deal is not able to provide the agreed upon service, it is the customer who must bear the risk. The commission will not establish any specific fees or charges in this rule. However, if a carrier-of-last-resort wishes to propose such fees or charges in its tariffs, the commission will consider those proposals through the tariff making process.

COMMENT: Several comments suggest that the company that is ceasing operations should be responsible for informing its own customers of that situation. That obligation should not be imposed upon the carrier-of-last-resort.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment. A provision has been added to section (2) that will require the company that is ceasing operations to provide such notice. Section (5) still requires the carrier-of-last-resort to give notice to the customer after the snap-back has occurred.

COMMENT: Several comments expressed concern about section (6) of the proposed rule. That section would have required the carrier-of-last-resort to provide detailed information about the snap-back to the commission within five days after the interim transfer of customers. The comments indicated that this requirement would be a great burden on the carriers-of-last-resort.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and section (6) of the proposed rule has been eliminated.

COMMENT: One comment suggests that a provision should be added to the rule to protect carriers-of-last-resort from allegations of slamming if they are in good faith complying with this snap-back rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and has added a new section (6) to address this situation.

COMMENT: One comment expresses concern that this rule would require carriers-of-last-resort to incur additional uncollectable expenses because customers who have been snapped-back might not feel an obligation to pay for services that they did not authorize.

RESPONSE: The commission is aware of this concern and has attempted to limit the financial impact that this rule will have on the carriers-of-last-resort.

COMMENT: One comment suggests that a carrier-of-last-resort should be reimbursed for its additional costs from the snap-back rule through the universal service fund.

RESPONSE: The commission does not believe that this would be an appropriate use for the universal service fund.

COMMENT: One comment suggests that section (1) of the rule is overly broad in that it would seem to make the snap-back rule apply where the company "otherwise terminates service to the end-user customer for any reason other than cause." The comment suggests that this language would make the rule apply if a customer voluntarily leaves the company and obtains service from the carrier-of-last-resort or another competitive company.

RESPONSE: The comment overlooks the rest of section (1) which adds the phrase "as provided for in its tariffs and approved by the commission." Normal business situations, such as a customer choosing to change carriers will be provided for in a company's tariffs and thus will not trigger application of the snap-back rule.

COMMENT: One comment indicates that a carrier-of-last-resort would not be able to give a customer specific rate information in its initial notification letter following a snap-back. Because of the

need for quick notice to the affected customers, that initial letter would need to be generic. The comment suggests the specific rate information instead be included with the customer's initial bill.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and new section (5) has been modified to address that concern. No other comments were received.

4 CSR 240-32.120 Snap-Back Requirements for Basic Local Telecommunications Companies

(1) To ensure uninterrupted service to basic local telecommunication service customers, a basic local telecommunications company reselling the services of a carrier-of-last-resort shall provide an immediate and orderly transition of its resale customers to a carrier-of-last-resort in the event the company ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission.

(2) If a provider of basic local telecommunications service, serving a customer through resale of a carrier-of-last-resort's services, ceases service, it shall immediately, but in no event later than thirty (30) days prior to its last day of service, provide the carrier-of-last-resort all relevant information to ensure that the end-user customer will not experience a service outage. The provider of basic local telecommunications service shall also send a notice to its end-users advising them of its intention to cease doing business and that such end-users must choose another basic local service provider. The notice shall further indicate that failure to choose another provider may result in the carrier-of-last-resort providing service during a thirty (30)-day interim period until such a choice is made and that failure to choose another provider within thirty (30) days after the transition shall result in a loss of service. The customer's intraLATA and/or interLATA carrier of choice will be continued if available. If it is not available, the carrier-of-last-resort will provide access to any carrier it selects until the customer notifies the carrier-of-last-resort in writing of a new carrier selection.

(3) The carrier-of-last-resort will immediately accept the resale customers of a provider of basic local telecommunications service, providing service through resale, that ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission. The carrier-of-last-resort shall provide the end-user identical or equivalent service during a thirty (30)-day interim period, or until the end-user chooses another provider. The rates and terms for the service supplied will be provided according to the carrier-of-last-resort's approved tariff, except that the payment or credit history of the customer shall not permit the carrier-of-last-resort to refuse to provide service during the transition period. Within thirty days after transfer of the customer, the customer must make an affirmative choice to stay with the new carrier or select another carrier. The carrier-of-last-resort is not obligated to provide service to the customer beyond the thirty (30)-day interim period. If the customer does not choose a new carrier, the carrier-of-last-resort may immediately terminate service to the customer notwithstanding any other requirements in its tariffs.

(4) If there is more than one carrier-of-last-resort in a service territory, customers of the basic local telecommunications company that has ceased operation shall be transferred to the carrier-of-last-resort whose services are being resold.

(5) The carrier-of-last-resort shall notify the customer of the temporary change of service provider, the applicable rates that will be charged the customer, and that the customer has thirty (30) days to make a choice of a preferred service provider. Such notice shall be

given no later than the carrier-of-last-resort's initial bill to the affected customer. The information regarding rates may be provided in such bill. The notice shall also provide that within thirty (30) days after transfer of a customer, the customer must make an affirmative choice to stay with the new carrier or select another carrier. If no choice is made, the current carrier may terminate service, notwithstanding any additional notice requirements contained in its tariffs.

(6) No good faith effort to comply with this rule shall be grounds for a claim of unwanted or unlawful provision of service, i.e. slamming or cramming, provided that the carrier-of-last-resort shall convert the end-user in an orderly fashion to their carrier of choice when an order is received from the end-user's provider of choice.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo 1994, the director adopts a rule as follows:

12 CSR 10-110.013 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 1999 (24 MoReg 2632-2634) as 12 CSR 10-111.013. The subsections of the proposed rule with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: The department received two letters of comment on this proposed rule. The department is in the process of rewriting the State Sales/Use Tax Regulations. As a part of the rewriting process, the chapter numbers and titles will be changed. This request is based on public comments asking the department to make the Sales/Use Tax Regulations easier to locate and understand.

COMMENT: One commenter suggested adding more specifics regarding dental work referred to in (3)(C).

RESPONSE AND EXPLANATION OF CHANGE: Incorporated.

COMMENT: One commenter suggested changes in (4)(A) to allow purchases by an agent of a disabled person.

RESPONSE AND EXPLANATION OF CHANGE: Incorporated.

COMMENT: One commenter suggested not requiring any type of purchaser identification for items sold to or for disabled persons.

RESPONSE: The department disagrees with the comment and did not change the proposed regulation.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

12 CSR 10-110.013 Drugs and Medical Equipment

(3) Basic Application of Tax.

(C) Also exempt from sales tax are items specified in section 1862(A)(12) of the Social Security Act of 1965. Exempt items included in this class are those used in connection with the treatment, removal or replacement of teeth or structures directly sup-

porting teeth. Dental equipment or supplies are not exempt. The exempt items include:

1. Dentures
2. Inlays
3. Bridge work
4. Fillings
5. Crowns
6. Braces, or
7. Artificial dentistry and dental reconstructions, which are made, manufactured or fabricated from molds or impressions made by dentists of the mouths of their particular patients and sold to dentists for insertion in the patient's mouth as the direct support of, substitution for, or part of the patient's teeth.

(4) Examples.

(A) A retailer sells an over-the-counter drug to an individual claiming a disability. The sale is exempt if the retailer obtains from the purchaser or their agent a statement similar to the following:

Purchases of over-the-counter drugs by individuals with disabilities are exempt from sales tax. IT IS UNLAWFUL TO FRAUDULENTLY CLAIM AN EXEMPTION. I CERTIFY THAT I HAVE A DISABILITY AND AM ENTITLED TO CLAIM THIS EXEMPTION OR I AM CLAIMING THIS EXEMPTION ON BEHALF OF A PERSON OR PERSONS WITH A DISABILITY.

Type of Purchase _____ Amount _____
Type of ID _____
ID Number _____
Name (print) _____
Signature _____

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.020 Missouri Motor Vehicle Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.030 General Organization is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2702-2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.040 Policy for Handling Release of Public Records is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.050 Public Complaint Handling and Disposition Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-1.060 Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2703-2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.010 Licensure Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.020 Licensure Requirements for Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.030 Licensure Requirements for Franchised New Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.040 Licensure Requirements for Used Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2704-2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.050 Licensure Requirements for Wholesale Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.060 Licensure Requirements for Recreational Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.070 Licensure Requirements for Historic Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.080 Licensure Requirements for Classic Motor Vehicle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2705-2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.090 Licensure Requirements for Motorcycle Dealers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.100 Licensure Requirements for New Vehicle and Trailer Manufacturers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.110 Licensure Requirements for Boat Manufacturers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.120 Bona Fide Established Place of Business **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2706-2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.130 Registration with Secretary of State **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.140 Business Records of Motor Vehicle Manufacturers, Boat Manufacturers, Motor Vehicle Dealers and Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.150 Dealer License Plates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2707–2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.160 Business Records of Manufacturers, Dealers and Boat Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 2—Licensure Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-2.170 Regulation of Boat Dealer's Certificate of Number and Plates is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 3—Off-Premise Shows or Tent Sales**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-3.010 Dealership Activity Conducted Away From Registered *Bona Fide* Established Place of Business is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.010 License Denial or Disciplinary Actions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2708–2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.020 Review of License Denial is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.030 Waiver of Hearing is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.040 Disciplinary Procedures and Hearings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2709-2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.050 Designated Hearing Officer is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.060 Notice of Hearing is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.070 Prehearing Conferences and Stipulations is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-4.080 Deliberations of the Commission is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2710-2711). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 60—Motor Vehicle Commission
Chapter 5—Advertising Practices**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 301.553, RSMo Supp. 1999, the director rescinds a rule as follows:

12 CSR 60-5.010 Advertising Practices for Motor Vehicle Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 1999 (24 MoReg 2711). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 19—Energy Assistance**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Family Services under section 207.020, RSMo 1994, the director amends a rule as follows:

13 CSR 40-19.020 Low Income Home Energy Assistance Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2394-2395). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 80—Maternity Home Tax Credit**

ORDER OF RULEMAKING

By the authority vested in the Missouri Division of Family Services under section 135.600, RSMo Supp. 1999, the division hereby amends a rule as follows:

13 CSR 40-80.010 Maternity Home Tax Credit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2395-2396). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.152, 208.153, 208.201, and 208.471, RSMo 1994, the director hereby amends a rule as follows:

13 CSR 70-15.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2408-2410). Changes have been made in the text of the proposed amendment, so they are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Medical Services reviewed all comments received on or before October 31, 1999. One comment was received and is summarized as follows:

COMMENT: The Division of Medical Services received one letter requesting changes to the proposed amendment 13 CSR 70-15.010. The first change was to revise the calculation of the Medicaid Share of the FRA assessment to include the out-of-state Medicaid patient days. The second change was to reinstate the add-on payment for days above the PAS limit.

RESPONSE: The division has reviewed the comments regarding the FRA assessment for out-of-state days and the add-on for days above the PAS limit. The division does not agree that an adjustment is necessary. The add-on payment for the Medicaid share of the assessment is made to recognize the full cost of caring for Missouri recipients. We do not believe it is appropriate for Missouri to make payments for out-of-state residents beyond the payments levels determined by that state. The add-on payment for days above the PAS limit was eliminated due to the pre-admission and concurrent review process implemented in October 1996. OB admissions are exempt from the review process and are subject to the Division's PAS limit which we believe establishes an appropriate maximum length of stay.

EXPLANATION OF OTHER CHANGES: The Division corrected a reference in paragraph (18)(B)5. The term "uninsured working parents" has been changed to "uninsured parents" to conform to Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal. A revised fiscal note is attached to reflect the effect the reduction in the FRA assessment in 13 CSR 70-15.110 for state fiscal year 2000 has on Direct Medicaid and uninsured payments.

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology

(18) In accordance with state and federal laws regarding reimbursement of unreimbursed costs and the costs of services provid-

ed to uninsured patients, reimbursement for each State Fiscal Year (SFY) (July 1–June 30) shall be determined as follows:

(B) Uninsured Add-Ons. The hospital shall receive eighty-one percent (81%) of the Uninsured costs prorated over the SFY. Hospitals which contribute through a plan approved by the director of health to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) shall receive eighty-two percent (82%) of its uninsured costs prorated over the SFY. The uninsured Add-On will include:

1. The Add-On payment for the cost of the Uninsured. This is determined by multiplying the charges for charity care and allowable bad debts by the hospital's total cost-to-charge ratio for allowable hospital services from the base year cost report's desk review. The cost of the Uninsured is then trended to the current year using the trend indices reported in subsection (3)(B). Allowable bad debts do not include the costs of caring for patients whose insurance covers the particular service, procedure or treatment;

2. An adjustment to recognize the Uninsured patients share of the FRA assessment not included in the desk-reviewed cost. The FRA assessment for Uninsured patients is determined by multiplying the current FRA assessment by the ratio of uninsured days to total inpatient days from the base year cost report;

3. The difference in the projected General Relief per-diem payments and trended costs for General Relief patient days;

4. The increased costs per day resulting from the utilization adjustment in subsection (15)(B) is multiplied by the estimated uninsured days; and

5. In order to maintain compliance with the Balance Budget Act of 1997 (BBA) DSH cap and the budget neutrality provisions contained in Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal, the Uninsured Add-On for SFY 2000 has been established at eighty-two percent (82%) of the cost of the uninsured as computed in accordance with this subsection. One factor in determination of the payment percentage is an estimate that fifty-four (\$54) million dollars shall be paid from July 1, 1999 thru April 30, 2000 related to previously uninsured parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal. The SFY 2000 payment percentage shall be increased by an additional one percent (1%) for every three point five (\$3.5) million dollars increment not paid for parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal as of April 30, 2000. For example, if total spending on the Medicaid Section 1115 Health Care Reform Demonstration Proposal parent population is forty-seven (\$47) million dollars, as of April 30, 2000, the Uninsured Add-On percentage for SFY 2000 shall be increased by two percent (2%).

REVISED PUBLIC COST: The fiscal impact in the proposed amendment has been revised to reflect the reduction in Direct Medicaid payments and uninsured payments resulting from the lowering of the FRA assessment percentage in 13 CSR 70-15.110 for SFY 2000. The revised fiscal impact is \$1,582,679 less than the amount submitted with the proposed amendment. The division estimates the annual aggregate public entity cost will be \$303,024,538.

REVISED FISCAL NOTE
PUBLIC ENTITY COST**I. RULE NUMBER**

Title: 13 -- Department of Social Services

Division: 70 -- Division of Medical Services

Chapter: 15 -- Hospital Program

Type of Rulemaking: Final Order

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services
Reimbursement Plan; Outpatient Hospital Services
Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual Estimated Cost: \$303,024,538

III. WORKSHEET

The fiscal impact in the proposed amendment has been revised to reflect the reduction in Direct Medicaid payments and uninsured payments resulting from the lowering of the FRA assessment percentage in 13 CSR 70-15.110 for SFY 2000. The revised fiscal impact is \$1,582,679 less than the amount submitted with the proposed amendment. The division estimates the annual aggregate public entity cost will be \$303,024,538.

IV ASSUMPTIONS

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 20—DEPARTMENT OF INSURANCE

IN ADDITION

Pursuant to section 538.210, RSMo regarding the medical malpractice award limit, the director of insurance is required to calculate the new limitation for noneconomic damages in medical malpractice awards.

Using the Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 538.210, RSMo, the new limit was established by the following calculations:

Index Based in 1996 Dollars

Fourth Quarter 1999 IPD Index	105.13
Fourth Quarter 1998 IPD Index	103.07

New Limit = 1999 Limit \times (1999 Index/1998 Index)
 $527,583 + 517,245 \times (1.0513/1.0307)$

2000 Noneconomic Damages Limit (Rounded) = \$528,000

As defined in section 536.026, RSMo Supp. 1999 “an agency may solicit comments from the public on the subject matter of a rule that the agency is considering proposing. The agency may file a notice of the rule under consideration as a proposed rulemaking with the secretary of state for publication in the *Missouri Register* as soon as practicable after the filing thereof in the secretary’s office. The notice may contain the number and the subject matter of the rule as well as a statement indicating where, when, and how persons may comment.”

This section complies with this statutory requirement to publish rules being considered for proposal by an agency. These rules carry none of the weight of a proposed rule or amendment. Publishing a rule under consideration places no obligation on the agency to promulgate an actual rule in the future. Rules under consideration are reproduced in the format provided by the agency and are not subject to the secretary of state’s formatting requirements.

Following is the Text of Rules Under Consideration Submitted by the Department of Labor and Industrial Relations

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS Division 60—Missouri Commission on Human Rights Chapter 3—Guidelines and Interpretation of Employment Anti-Discrimination Laws

RULE UNDER CONSIDERATION

The Commission is examining the need for a rule change. The Commission plans to hold a pre-filing hearing under Section 536.026 in Jefferson City on March 30, 2000 from 10:00 am to 12:00 noon in Training Rooms 1 & 2 of the Employment Security building at 421 E Dunklin to determine the need to promulgate a proposed amendment.

On September 17, 1999 the Commission filed a proposed amendment to **8 CSR 60-3.040**, Employment Practices Related to Men and Women, in order to have its rule conform to the current federal standard for sexual harassment. A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 1999 (24 MoReg 2588). Due to the comments received, which indicated a misunderstanding by the majority of the commentators on what the rule change would accomplish, an order to withdraw the proposed amendment was filed on December 29, 1999 and published in the *Missouri Register* on February 1, 2000. The hearing will allow all interested parties to have input into the process, and the content of the rule will be carefully considered. All parties who commented in writing on the October 15, 1999 proposed amendment will receive an individual notification of the hearing.

Current Rule under consideration for amendment.

8 CSR 60-3.040 Employment Practices Related to Men and Women

PURPOSE: The Missouri Commission on Human Rights has the authority to formulate policies to effectuate the purposes of Chapter 213, RSMo (1986). This rule sets forth guidelines and interpretations governing, but not limited to, the major aspects of employment practices in relation to sex.

(1) References to employer(s) in these rules state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities, as defined in the Missouri Fair Employment Practices Act, Chapter 213, RSMo (1986).

(2) The bona fide occupational qualification exception as to sex is strictly and narrowly construed. Labels—men’s jobs and women’s jobs—tend to deny employment opportunities unnecessarily to one sex or the other.

(A) The following situations do not warrant the application of the bona fide occupational qualification exception:

1. The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men;

2. The refusal to hire an individual based on stereotyped characterizations of the sexes. These stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group; and

3. The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers.

(3) Employers engaged in recruiting activity must recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification.

(4) Advertisement in newspapers and other media for employment must not express a sex preference, unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in columns headed male or female will be considered an expression of a preference limitation, specification or discrimination based on sex.

(5) Section 213.055, RSMo (1986) specifically states that it shall be unlawful for an employment agency to discriminate against any individual because of sex. Private employment agencies which deal exclusively with one sex are engaged in an unlawful employment practice, except to the extent that those agencies limit their services to furnishing employees for particular jobs for which sex is a bona fide occupational qualification.

(A) An employment agency that receives a job order containing an unlawful sex specification will share responsibility with the employer placing the job order if the agency fills the order knowing that the sex specification is not based upon a bona fide occupational qualification. However, an employment agency is not in violation of the law, regardless of the determination as to the employer, if the agency does not have reason to believe that the employer's claim of bona fide occupational qualification is without substance and the agency makes and maintains a written record available to the commission of each job order. This record shall include the name of the employer, the description of the job and the basis for the employer's claim of a bona fide occupational qualification.

(B) It is the responsibility of employment agencies to keep informed of opinions and decisions of the commission on sex discrimination.

(6) A preemployment inquiry may ask male-, female-, or Mr., Mrs. or Miss, provided that the inquiry is made in good faith for nondiscriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

(7) Written personnel policies relating to job policies and practices must expressly indicate that there shall be no discrimination against employees on account of sex. If the employer deals with a bargaining representative for his/her employees and there is a written agreement on conditions of employment, this agreement shall not be inconsistent with these rules.

(8) Employees of both sexes shall have an equal opportunity to any available job that s/he is qualified to perform unless sex is a bona fide occupational qualification.

(9) No employer shall make any distinction based upon sex in employment opportunities, wages, hours or other conditions of employment. In the area of employer contributions for insurance, pensions, welfare programs and other similar fringe benefits, the employer will not violate these rules if benefits are equal for men and women.

(10) Any distinction between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex will be considered to be a distinction made on the basis of sex. Similarly, an employer must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to members of the opposite sex.

(11) The employer's policies and practices must assure the appropriate physical facilities to both sexes. The employer may not refuse to hire men or women or deny men or women a particular job because there are no restrooms or associated facilities.

(12) An employer must not deny a female employee the right to any job she is qualified to perform. For example, an employer's rules cannot bar a woman from a job that would require more than a certain number of hours or from working at jobs that require lifting or carrying more than designated weights.

(13) It is an unlawful practice to classify a job as male or female or to maintain separate lines of progression or separate seniority lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that—

(A) A female is prohibited from applying for a job labeled male or for a job in a male line of progression and vice versa;

(B) A male scheduled for layoff is prohibited from displacing a less senior female on a female seniority list and vice versa; and

(C) A seniority system or line of progression which distinguishes between light and heavy jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex or creates unreasonable obstacles to the advancement by members of either sex.

(14) The employer's wage schedules must not be related to or based on the sex of the employees; and the employer may not discriminatorily restrict one sex to certain job classifications. The employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex.

(15) Fringe benefits, as used in this rule, include medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions and privileges of employment.

(A) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

(B) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the head of the household or principal wage earner in the family unit, the benefits tend to be available only to male employees and

their families. Due to the fact that conditioning discriminatorily affects the rights of women employees, and that head of household or principal wage earner status bears no relationship to job performance, benefits which are so conditioned will be found in a prima facie violation of the prohibitions against sex discrimination contained in the act.

(C) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees.

(D) It shall not be a defense under Chapter 213, RSMo (1986) to a charge of sex discrimination in benefits that the cost of benefits is greater with respect to one sex than the other.

(16) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is in prima facie violation of Chapter 213, RSMo (1986) and may be justified only upon showing of business necessity.

(A) Disabilities caused or contributed to by pregnancy, miscarriage, legal abortion, childbirth and recovery are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave, plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

(B) Where the termination of a temporarily disabled employee is caused by an employment policy under which insufficient or no leave is available, this termination violates the act if it has a disparate impact on employees of one sex and is not justified by a business necessity.

(17) Harassment on the basis of sex is a violation of Chapter 213, RSMo.

(A) Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when—

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(B) In determining whether alleged conduct constitutes sexual harassment, the commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

(C) Applying general principles of Chapter 213, RSMo, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as employer) is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

Auth: section 213.030(6), RSMo 1986. This rule was previously filed as 4 CSR 180-3.040. Original rule filed Oct. 31, 1973, effective Nov. 10, 1973. Amended: Filed July 1, 1980, effective Nov. 13, 1980. Emergency amendment filed Sept. 17, 1999, effective Sept. 27, 1999, terminated Dec. 29, 1999.

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support or opposition to a rule change, including suggested language, with the Commission through Steven Skolnick, Missouri Commission on Human Rights, P.O. Box 1129, Jefferson City, MO 65102. To be considered, comments must be received within forty-five (45) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for March 30, 2000 in Jefferson City at the Employment Security Building, 421 E. Dunklin, from 10:00 am to 12:00 noon.*

SPECIAL NEEDS: *If you have special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-1966 at least five working days prior to the pre-filing hearing.*

**OFFICE OF ADMINISTRATION
Division of Purchasing**

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, P.O. Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: <http://www.state.mo.us/oa/purch/purch.htm>. Prospective bidders may receive specifications upon request.

B1Z00257 Grocery-4th Quarter-April through June 3/1/00;
B1Z00279 Steel Tubing & Rods 3/1/00;
B1Z00281 Equipment: Sewing Machinery 3/2/00;
B1Z00289 Lighting Fixtures 3/2/00;
B1Z00291 Trucks: 1 1/2 Ton, 4 x 4 3/2/00;
B1Z00302 Film, Polaroid 3/2/00;
B3Z00133 Trash Collection Services 3/2/00;
B003056 Training Services/Management Training Programs
3/6/00;
B3Z00094 International Marketing-Missouri Tourism 3/6/00;
B3Z00138 Conference Services 3/6/00;
B1Z00231 Folder, Medical File 3/7/00;
B1Z00293 Bras 3/7/00;
B1Z00233 Terry Toweling Blanks 3/8/00;
B2Z00287 Mace: Pepper, Dye 3/8/00;
B1Z00304 Vehicle: Sport Utility 3/9/00;
B1Z00305 Crawler Dozers 3/9/00;
B1Z00306 Trailers: Gooseneck 3/13/00;
B1Z00313 Vans: One-Ton Cargo 3/13/00;
B1Z00310 Paper: Die Cut Tabs 3/14/00;
B1Z00311 Office Supplies-Statewide 3/14/00;
B1Z00315 Paper, Carbonless 3/14/00;
B3Z00093 Non-Emergency Medical Transportation 3/14/00;
B3Z00107 Court Reporting Services 3/14/00;
B1Z00303 Paper, Office and Print Shop 3/15/00;
B3Z00130 Referral/Outreach & Interpreter Services 3/17/00;
B3Z00143 Trash Collection Services 3/17/00;
B3Z00135 Advertising Agency Services-Tourism 3/30/00.

It is the intent of the state of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

Public Awareness Multi-Media Campaign- "Baby Your Baby",
supplied by Vanguard Media.

Joyce Murphy, CPPO,
Director of Purchasing

**Rule Changes Since Update to
Code of State Regulations**

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—23 (1998), 24 (1999) and 25 (2000). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable and RUC indicates a rule under consideration.

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4 CSR 240-80.015	Public Service Commission		24 MoReg 1359	25 MoReg 69	
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5 CSR 90-5.450	Vocational Rehabilitation		25 MoReg 387		
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7 CSR 10-6.015	Highways and Transportation Commission		24 MoReg 766		
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7 CSR 10-6.040	Highways and Transportation Commission		24 MoReg 767		
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7 CSR 10-6.050	Highways and Transportation Commission		24 MoReg 768		
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7 CSR 10-6.060	Highways and Transportation Commission		24 MoReg 769		
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9 CSR 30-4.043	Certification Standards	24 MoReg 2199	24 MoReg 2222	25 MoReg 75	
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10 CSR 10-5.390	Air Conservation Commission.....		25 MoReg 264		
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10 CSR 10-5.510	Air Conservation Commission.....		24 MoReg 2012	25 MoReg 82	
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10 CSR 10-5.540	Air Conservation Commission.....		24 MoReg 2034	25 MoReg 101	
10 CSR 10-5.550	Air Conservation Commission.....		24 MoReg 2041	25 MoReg 109	
10 CSR 10-6.020	Air Conservation Commission.....		24 MoReg 2629		
10 CSR 10-6.065	Air Conservation Commission.....		24 MoReg 2630		
10 CSR 10-6.070	Air Conservation Commission.....		24 MoReg 2226	25 MoReg 440	
10 CSR 10-6.075	Air Conservation Commission.....		24 MoReg 2226	25 MoReg 440	
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10 CSR 20-4.061	Clean Water Commission.....		24 MoReg 1724	25 MoReg 309	
10 CSR 20-7.015	Clean Water Commission.....		25 MoReg 264		
10 CSR 20-10.012	Clean Water Commission.....		24 MoReg 1056	25 MoReg 311	
10 CSR 20-10.022	Clean Water Commission.....		24 MoReg 1056	25 MoReg 311	
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10 CSR 20-12.010	Clean Water Commission.....		24 MoReg 1058R	25 MoReg 312R	
10 CSR 20-12.020	Clean Water Commission.....		24 MoReg 1059R	25 MoReg 312R	
10 CSR 20-12.025	Clean Water Commission.....		24 MoReg 1059R	25 MoReg 313R	
10 CSR 20-12.030	Clean Water Commission.....		24 MoReg 1059R	25 MoReg 313R	
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10 CSR 20-12.060	Clean Water Commission.....		24 MoReg 1061R	25 MoReg 313R	
10 CSR 20-12.061	Clean Water Commission.....		24 MoReg 1061R	25 MoReg 313R	
10 CSR 20-12.062	Clean Water Commission.....		24 MoReg 1062R	25 MoReg 314R	
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10 CSR 20-12.080	Clean Water Commission.....		24 MoReg 1062R	25 MoReg 314R	
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10 CSR 45-3.010	Metallic Minerals		24 MoReg 1258R		
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10 CSR 60-3.010	Public Drinking Water Program.....	24 MoReg 2565	24 MoReg 1852	25 MoReg 316	
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11 CSR 75-3.070	Peace Officer Standards and Training		24 MoReg 2968		
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11 CSR 75-10.010	Peace Officer Standards and Training		24 MoReg 2969		
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11 CSR 75-10.050	Peace Officer Standards and Training		24 MoReg 2970		
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11 CSR 75-10.090	Peace Officer Standards and Training		24 MoReg 2971R		
11 CSR 75-10.100	Peace Officer Standards and Training		24 MoReg 2971		
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12 CSR 10-110.016	Director of Revenue	<i>Changed from 12 CSR 10-III.016</i>	24 MoReg 2634	25 MoReg 441	
12 CSR 10-110.900	Director of Revenue		25 MoReg 20		
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12 CSR 10-111.010	Director of Revenue		24 MoReg 2392	25 MoReg 327	
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12 CSR 30-2.017	State Tax Commission		24 MoReg 2696		
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12 CSR 30-4.010	State Tax Commission		25 MoReg 296		
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